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Federal Statutes Affecting the Land Management Planning Functions of the Forest Service

Volume I: Planning Sheets

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FEDERAL STATUTES AFFECTING THE LAND MANAGEMENT PLANNING FUNCTIONS OF THE FOREST SERVICE

VOLUME I: Planning Sheets

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PREFACE

Volume I is the result of a project undertaken by an interdisciplinary research team pursuant to a Cooperative Agreement between Texas Tech University and the Forest Service, United States Department of Agriculture. The first part of the project was to examine federal legislation and identify those statutes which had an impact on the planning and management functions of the USDA Forest Service. This work culminated in an analysis of the principal statutes affecting those functions by developing a "planning sheet" for each major statute. The planning sheets in Volume I provide a brief description of the objectives of the statutes, identification of requirements, performance standards, and authorizations in the statute, and identification of other factors relevant to the Forest Service planning and management functions for the National Forest System.

The planning sheet concept developed from a need for a concise reference for non-lawyers to statutory objectives and purposes, requirements and authorizations, and consultation and coordination provisions of the laws that the Forest Service applies in managing the National Forest System. One objective was to provide planners, managers, and field personnel with a reference that could familiarize them generally with the purposes and provisions of the principal statutes that they would be using on a regular basis. The purpose was not to provide a comprehensive legal interpretation of each statute, but rather to provide a basis to determine what action might be necessary and when particular problems require further legal advice. Thus, these planning sheets are intended to provide a general understanding of the various statutes, their use, and their interrelationships with one another in the planning and management process.

A side benefit of the planning sheet approach is that it vividly illustrates for planners and managers the large number of statutes that directly affect their day-to-day work. This legislation is crucial to their decisions, and understanding of it is necessary to fulfill their responsibilities. The number of statutes also demonstrates the need for legal consultation and advice in performing planning and management functions of the Forest Service. A lawyer is no longer merely a helpful consultant, but has become a necessary component of a planning team. The role of law in planning and management has expanded greatly in recent years.

A. Preparation of the Planning Sheet

Several facts must be remembered in using the attached planning sheets. The planning sheets were prepared for the individual statute identified and were limited to that statute. Unless the statute expressly referred to another act, no cross reference was listed. This does not mean that there are not interrelationships among these and other federal statutes, but only that the particular one being analyzed did not have an express reference to other statutes. A statute that has obvious coordination and interrelationships with other statutes is the National Environmental Policy Act of 1969 (NEPA). But NEPA does not contain any express cross-references to other statutes; hence, on its planning sheet none is listed. Certainly, however, in implementing NEPA, particularly through the environmental impact statement requirement, coordination and satisfaction of requirements in other statutes such as the Wilderness Act of 1964 or the Endangered Species Act of 1973 may be satisfied in a properly prepared impact statement.

Paraphrasing of the statutory language was used insofar as practicable in every planning sheet. Direct quotations have been noted by use of quotation marks or appropriate indentations. But in some instance statutory language was used directly without any notations if it dealt with technical requirements or lengthy series or conditions.

The planning sheets are also limited in their analysis to the provisions of the statute that directly or indirectly affect the Forest Service planning and management functions. Provisions of the statutes that may apply directly to, or impose duties on, other agencies (for example, the Department of Interior) were not detailed unless the same provisions applied to the Secretary of Agriculture or the Forest Service. Throughout, the Secretary of Agriculture is abbreviated by the reference, SecAg.

The division in the planning sheets into planning and management functions and mandatory and discretionary functions was done in a consistent, but admittedly somewhat arbitrary, manner. What seems to be clearly mandatory language is often subject to ambiguity. Court cases are legion involved interpretation of a statutory use of "shall" to ascertain whether the language is less clear, such as when the Secretary of Agriculture is "directed and authorized," or "must consult as the Secretary of Agriculture deems necessary," or "shall coordinate as the Secretary of Agriculture deems appropriate," or "is authorized to implement a required program under a statute." In each case judgments were made in light of the purposes and intent of the statute and of whether the provisions were mandatory or discretionary. They were then placed accordingly on the planning sheets.

Similar interpretation problems were confronted in dividing functions into management and planning. The general criteria used were whether the activity related to goals, objectives, or long range activities for the Forest Service or agency, or whether the activities related to on-site, short-term, or day-to-day activities of the Forest Service or agency. Efforts were made to be consistent in these judgments, recognizing that they may not be accurate in every case or that at least there is room for disagreement in some instances. The division of the tasks into management or planning functions was not deemed critical to the use or value of the planning sheets. That is, the placement of the statement does not affect its accuracy or contribution to a fuller understanding of the statute.

B. Use of the Planning Sheet

The planning sheets are intended as a reference for planners, managers, staff personnel, and field personnel. The sheets are intended to assist anyone involved in decisionmaking in acquiring a better understanding of a statute and its requirements through ready reference to a relatively simple form. That in turn can help users in making proper determinations or getting whatever additional assistance is necessary. The planning sheets are not an abstract of the statutes or an excerpt of quotes from selected provisions within the statutes. They are a collection of particular requirements concerning performance standards, objectives, policies, consultations with other agencies, cooperation with state and federal governments, work with private individuals, and other factors relevant to planning and management decisions.

The planning sheets are not intended to be used as conclusive and final references for legal interpretations for the statutes. To lose sight of this point could lead to a misuse of the planning sheets by referring to them for legal construction and opinion about the statutes. Proper use seeks to identify those areas in which a problem has arisen that requires further legal clarification and interpretation. In short, the planning sheets are intended to identify problem areas in a variety of contexts including legal ones, rather than providing conclusive legal answers to questions in advance of the questions even being known or raised. Properly used, the planning sheets should indicate when further consultation with specific agencies might be necessary or consultation with the public might be appropriate or reference to another statute and satisfaction of requirements of another statute may be needed. But the sheets do not answer in advance whether particular consultation, cooperation, or reference was legally sufficient.

The planning sheets in Volume I should be used in conjunction with the textual discussion in Volume II of the main statutes affecting the Forest Service planning and management functions. Once planning or management problems have been identified from the planning sheets, reference to the textual discussion of the statutes in Volume II could be made to clarify particular issues.

Because the planning sheets are concise, condensed statements of particular statutes, fuller elaboration of the statutes in a textual content must be examined when the planning sheets raise unresolved problems or issues. The planning sheets do not provide a basis of authority for any action and cannot be used in and of themselves to justify any action by planners or managers. But they can be used to identify the areas in which further work or consultation is needed. The important point is that the textual analysis of the statute itself must be consulted when those problems or issues arise or in any case of doubt about the planning sheets, for example, whether an action is mandatory or discretionary.

Volume I was completed by the authors in December, 1978, and included materials through that date. The technical editing, updating, and revising was completed in December 1980. With few exceptions, the revisions include materials through August 1980.

ACKNOWLEDGMENTS

Volume I constitutes a report prepared as an interdisciplinary research effort involving the School of Law and the College of Agricultural Sciences of Texas Tech University. Several students at Texas Tech Law School assisted on the project, but the efforts of Mike Charlton, Janet Davis, Ken McAllister, and Joel Ross deserve specific recognition. Special thanks go to Valerie Fogleman for her dedication, patience, and understanding in typing and preparing the manuscript. Dr. Gordon Lewis, Program Manager, Eisenhower Consortium for Western Environmental Forestry Research, Rocky Mountain Forest and Range Experiment Station, United States Forest Service, worked closely with the project team to coordinate the preliminary planning for this effort.

Completion of such an undertaking required the dedicated assistance of numerous people within the Forest Service. A special debt of gratitude is extended to Mr. Charles R. Hartgraves, Director, Office of Land Management Planning, and Mrs. Joyce Parker, Administrative Assistant to the Director, for their untiring cooperation throughout the entire project period.

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*Each piece of legislation is treated as a new page to allow for post-publication additions and revisions.

C. Environmental Legislation

INTRODUCTION

The work on the planning sheets in Volume I and the statutory analysis of selected statutes in Volume II was begun shortly after the enactment of the National Forest Management Act (NFMA). The research project was undertaken with the Texas Tech University School of Law and College of Agricultural Sciences in conjunction with the ongoing work within the Office of Land Management Planning, USDA Forest Service, to develop the NFMA Section 6 Regulations. The work was undertaken with the purpose of extracting concisely the clearly identifiable duties, both discretionary and mandatory, set forth in major federal statutes. From this compilation of statutes and the development of planning sheets to simplify their examination, the work progressed to a more in-depth analysis of the more significant statutes affecting the Forest Service land management planning functions.

The work in Volumes I and II was not prepared as a legal interpretation or opinion of the various statutes. The objective was a clearly written and concisely stated explanation of the legal requirements and performance standards in these statutes. The result is a discussion of the practical application of the statutes in light of their goals and objectives. Those goals and objectives are gleaned from judicial cases, legislative histories, and administrative interpretations of the statutes. The product is intended to be an aid to a planner in performing the day-to-day land management planning activities. The planning sheets in the first instance will help clarify and provide a concise statement of the standards and requirements from applicable statutes involved in a particular decision. The Volume II discussion will provide a more detailed analysis when the shorter delineation in the planning sheet is inadequate to clarify or resolve a situation. If further examination reveals that the problem is highly complicated, advice should be sought from the appropriate line officer or supervisory personnel.

The administrative law materials are included to expose Forest Service personnel to the legal framework for agency decisionmaking generally. That Chapter discusses and explains the role of the courts in the overall administrative process. A significant role, of course, is for the court to assure that agencies comply with both the procedural and substantive requirements of the applicable laws. Indeed that fact is why Volume II is crucial to the land management planning activities of the Forest Service. Many situations and decisions that result in lawsuits could be avoided by fully understanding the problems which Congress perceived and was addressing and the goals Congress sought through the legislation. An understanding and awareness of these goals and objectives of a law can alert the decisionmaker to courses of action which meet those congressional expectations. Moreover, a fuller awareness of these obligations and objectives enables the federal land managers to apply their expertise and develop a plan that is both legally and professionally sound.

For these reasons Volumes I and II will be valuable reference tools for Forest Service personnel involved in land management planning functions. The Volumes should be used in conjunction with one another. Volume I can be used to extract a concise, abbreviated statement of responsibility and authority. For application or interpretation questions, however, Volume II must be referred to for further analysis and discussion. I seriously urge all Forest Service personnel involved in land management planning activities to study, understand, and frequently refer to these Volumes while fulfilling their planning and management responsibilities. These Volumes were prepared concurrently with the development of the NFMA Section 6 Regulations for the integrated planning process, and the significance of the new planning process for the Forest Service cannot be overstated. It is imperative that the integrated planning be conducted not only with a thorough understanding of NFMA but also of the various other statutes that so significantly impact the Forest Service land management planning functions.

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Creative Act of 1891 (Forest Reserve Act)

26 Stat. 1104, § 24; 16 U.S.C. § 471, as amended. March 3, 1891.

Summary

The Act attempts to prevent destruction of the nation's forests by authorizing the President to set apart areas of public lands or government reservations as national forests. The presidential power to reserve public lands is discussed here for historical significance regarding how certain forests were created. The power mentioned in II.A.2. below was repealed by § 704 of FLPMA (p. 65).

I. Requirements and/or Standards

A. **Planning**

1. The President must declare by proclamation the establishment and limits of national forests reserved from public lands.
2. National forests cannot be established within the boundaries of government lands reserved for national parks, mineral deposits, water-power purposes, national monuments, or Indian reservations.
3. Lands set aside for national forests within the boundaries of government reservations must be suitable for the production of timber.

B. **Management**

1. National forests within government reservations are to be administered by SecAg according to rules, regulations, and general plans approved by SecAg and the secretary of the department formerly administering the area.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The President may reserve as national forests public lands covered wholly or in part with timber or undergrowth, regardless of the lands' commercial value.
2. The President may establish national forests, or additions thereto, within the boundaries of government reservations.

B. **Management** – none

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. National forests within the boundaries of government reservations must be on lands determined by SecAg and the secretary of the department administering the lands to be suitable for production of timber.

b. The rules, regulations, and general plans for the administration of national forests within the boundaries of government reservations must be approved by SecAg and the secretary of the department formerly administering the area.

2. State and Local Agencies – none
3. Other – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes – none

Note: The Creative Act, especially its administrative provisions, was significantly amended by RPA in 1974 and NFMA in 1976 (p. 61).

Section 471 was repealed effective October 22, 1976, by § 704(a) of FLPMA (p. 65).

The authorizations in this Act were originally directed to the Secretary of Interior, but subsequently were transferred to SecAg by the Transfer Act of 1905 (p. 7).

Forest Management Acts of 1897, 1899, and 1901 (Organic Act)

30 Stat. 34, 36, 43, 44 (1897); 30 Stat. 908 (1899); and 31 Stat. 790 (1901); 16 U.S.C. § § 473–82, 495–96, 522, and 551, as amended. June 4, 1897; February 28, 1899; and February 15,1901.

Summary

The Act elaborates on the President's authority to establish national forests under the Creative Act of 1891 (p. 3) and provides for their management and use. The President's authority is discussed here for its historical significance. That authority was repealed by § 704 of FLPMA (p. 65). The forests were to be protected to insure a "continuous supply of timber for the use and necessities" of United States citizens.

Other sections of the Act still in effect set out purposes for which national forests may be administered: protection from fire; use of timber and stone by settlers; ingress and egress of settlers and for prospecting; sites for schools and churches for residents of national forests; civil and criminal jurisdiction; and use of waters and mineral lands.

I. Requirements and/or Standards

A. **Planning**

1. All public lands designated or available for designation as national forests under § 471 shall be administered, insofar as is practicable, according to § 475. 16 U.S.C. § 475.

2. No national forest shall be established unless for the purpose of:

a. securing favorable conditions of water flows, or

b. furnishing a continuous supply of timber for the use and necessities of U.S. citizens. 16 U.S.C. § 475 as construed in United States v. New Mexico, 238 U.S. 696 (1978), which rejected an interpretation of the language, "to improve and protect the forest within the boundaries," as a third purpose for which forests could be created.

3. National forests shall not be established to include lands more valuable for mining or agricultural than for forest purposes. Id.

4. Public land surveys within or without national forests or providing their boundaries shall be done by Department of Interior or its designate. 16 U.S.C. § 488.

B. **Management**

1. Actual settlers residing within the boundaries of national forests shall not be prohibited from ingress or egress or from crossing reservations to and from their homes or property. 16 U.S.C. § 478.

2. SecAg must permit the construction of wagon roads and other improvements as may be necessary for actual settlers residing within boundaries of national forests to reach their homes and to utilize their property. 16 U.S.C. § 478.

3. No person shall be prohibited from entering national forests for all proper and lawful purposes, including prospecting, locating, and developing the mineral resources thereof, so long as the rules and regulations covering such forest reservation are complied with. 16 U.S.C. § 478.

4. The Forest Service must allow settlers residing within the exterior boundaries of national forests, or in the vicinity thereof, to maintain schools and churches, and to occupy any part of the national forest for that purpose, not exceeding two acres for each schoolhouse and one acre for a church. 16 U.S.C. § 479.

5. SecAg shall make provisions for the protection against destruction by fire and depredations upon the public forests and forest reservations which may have been, or hereafter may be, set aside under the 1891 Act. 16 U.S.C. § 551.

6. Right-of-way granted for purposes of electrical power generation and distribution, water supply, and telephone and telegraph cannot exceed 50 feet of each side and must be in the public interest. 16 U.S.C. § 522.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may make such rules and regulations and establish such service as will regulate the occupancy and use of national forests and preserve them from destruction. 16 U.S.C. § 551.

2. SecAg may consider the economic well-being of the citizens of a state wherein timber is located in administering national forest lands "for the use and necessities of citizens of United States." Sierra Club v. Hardin, 325 F. Supp. 99 (D. Alaska, 1971).

3. SecAg may issue rules and regulations concerning lease of national forest lands for sanitarium or resort purposes. 16 U.S.C. § 495.

B. **Management**

1. SecAg may by regulations permit the free use of as much timber and stone found upon national forests as is needed by bona fide settlers, miners, residents and mineral prospectors, for firewood, fencing, buildings, mining, prospecting, and other domestic purposes; the timber must be used within the state or territory where the national forests are located. 16 U.S.C. § 477.

2. SecAg may, by issuing rules and regulations, control the construction of roads and improvements by settlers necessary for their access and use of property within national forests. 16 U.S.C. § 478.

3. All waters on national forests may be used for domestic, mining, milling, or irrigation purposes, under the laws of the state wherein the national forests are situated, or under the laws of the U.S. and the rules and regulations established thereunder. 16 U.S.C. § 481. (United States v. New Mexico, 238 U.S. 696 (1978), is the most recent illustration of the application of state law to national forest land.)

4. SecAg may rent or lease national forest lands around mineral springs to persons or corporations for sanitariums, health or pleasure resorts, or camping, that are open to the public. 16 U.S.C. § 495.

5. SecAg may permit use of rights-of-way through or upon national forest facilities for generation and distribution of electrical power, for telephone and telegraph purposes, and for supplying water, but the use granted is subject to revocation at any time. 16 U.S.C. § 522.

III. Mandatory Coordination

A. **Other Statutes**

1. Administration mandated under the 1897 Act applies to national forests established under § 471. 16 U.S.C. § 475.

B. **Groups** – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies

a. State retains civil and criminal jurisdiction in national forests. 16 U.S.C. § 480.

b. State law applies to use of water in national forests unless the right to use the water was reserved to the United States at the time of withdrawal of the lands from the public domain. 16 U.S.C. § 481 and United States v. New Mexico, 238 U.S. 696 (1978).

3. Other – none

V. Cross-references to Other Statutes

A. 16 U.S.C. § 471 (p. 3) in § 475.

Note: NFMA (p. 61) effectively repealed § 476 concerning timber sales and § § 473 and 482 concerning presidential authority to return land to the public domain. These repealed provisions were not analyzed above. FLPMA § 706(a) (p. 65) repealed § § 522 and 551 (included above) insofar as they relate to the issuance of rights-of-way over Forest Service land which is now governed by FLPMA § 704. The repeal of the authorization for issuance of right–of–way will not be construed as terminating any valid, existing right-of-way, lease, permit, etc. § 701(a) of FLPMA (p. 65).

The authorization in this Act were originally directed to the Secretary of Interior, but subsequently were transferred to SecAg by the Transfer Act of 1905 (p. 7).

Transfer Act of 1905

33 Stat. 628; 16 U.S.C. § § 472, 524, 554, and 554a. February 1, 1905.

Summary

The Act transferred the execution of all laws affecting national forests, except mining laws, to USDA and clarified the authority of each department concerning national forests.

I. Requirements and/or Standards

A. **Planning**

1. SecAg shall execute all laws affecting national forests established under § 471, except mining laws. 16 U.S.C. § 472.

2. Rights-of-way across and within national forests for dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals are granted to United States citizens and corporations for municipal purposes, mining, milling, and reduction of ores during the period of their beneficial use. 16 U.S.C. § 524.

3. The authority of the Secretary of Interior over national forests under § § 495 and 551 is transferred to SecAg. 33 Stat. 628.

B. **Management**

1. Insofar as is practicable forest rangers and supervisors shall be selected from states where the national forest is located. 16 U.S.C. § 554.

2. All forest personnel must be appointed by SecAg on the basis of fitness, not political affiliation. 16 U.S.C. § 554a.

II. Authorizations (non-mandatory activities) - none

III. Mandatory Coordination

A. **Other Statutes**

1. Compliance with § 471 is required. 16 U.S.C. § 472.

B. **Groups** - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. 16 U.S.C. § 471 (p. 3) in § 472.

Note: Authority to grant rights-of-way is expressly granted SecAg in § 501(a) of FLPMA (p. 65) which in § 706(a) repeals § § 522–524 insofar as they relate to the issuance of rights-of-way over national forest lands. The repeal of the authorization for issuance of rights-of-way will not be construed as terminating any valid, existing right-of-way, lease, or permit. § 701(a), FLPMA (p. 65).

Weeks Law of 1911

36 Stat. 961; 16 U.S.C. § § 500, 513–519, 521, 552, and 563, as amended. March 1, 1911.

Summary

The Weeks Forest Purchase Law of 1911 originally provided for the acquisition, by purchase or exchange, or lands to be included in the National Forest System. An exchange could be made of lands or of timber of national forests within the same state. Lands within the watersheds of navigable streams could be purchased if acquisition may be necessary to protect the flow of navigable streams. The Clarke-McNary Act of 1924 (p. 13) expanded the purposes of acquisition to include timber production. The National Forest Reservation Commission was also established by the Weeks Law. The Commission reviewed SecAg's recommendations of lands to be purchased and had to approve any purchase made. NFMA (p. 61) significantly amended the Weeks Law by abolishing the Commission and transferring its functions to SecAg. The following analysis is the amended Weeks Law.

I. Requirements and/or Standards

A. **Planning**

1. Lands acquired by exchange shall be part of the national forest lands and subject to provisions of Weeks Law. 16 U.S.C. § 516.

2. The value of exchange land shall be national forest land or timber therefrom must be equal. 16 U.S.C. § 516.

3. Public notice of a proposed exchange must be given in the local area at least weekly for four successive weeks in advance of the effective date of the proposed exchange. Id.

4. Acquisition of lands by exchange must benefit the public interest. 16 U.S.C. § 516.

5. Lands acquired shall be permanently reserved and administered as national forest lands under § 471 (p. 3). 16 U.S.C. § 521.

B. **Management**

1. SecAg must study, locate, and purchase forested, cut-over, or denuded lands necessary for the regulation of the flow of navigable streams or for timber production. 16 U.S.C. § 515.

2. Lands purchased under § 515 must be within the watershed of navigable streams. Id.

3. No lands may be purchased under § 515 unless the state legislature in which the lands are located consents to acquisition by USDA. Id.

4. Title to acquired lands must be in a form satisfactory to the United States Attorney General before SecAg makes any payment for them. 16 U.S.C. § 517.

5. Timber given in exchange for land shall be cut and removed pursuant to laws regulating national forests, under the supervision of SecAg, and according to SecAg's requirements. 16 U.S.C. § 516.

6. Any easement, right-of-way, or reservation retained by a grantor of acquired lands shall be subject to the rules and regulations of SecAg concerning the occupation, use, operation, protection, and administration of the interest retained, and those rules and regulations shall be made a part of the written instrument conveying title to the lands to the United States. 16 U.S.C. § 518.

7. Twenty-five percent of the revenue of a national forest shall be paid annually by the Secretary of the Treasury to the state in which the forest is located for the public schools and roads in the counties in which the forest is located. 16 U.S.C. § 500.

8. SecAg shall make available to states current projections of estimated revenues and payments to the states under § 500 based on SecAg's budget revenue estimates. 16 U.S.C. § 500.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may accept title to land within national forests in exchange for an equal value of national forest land in the same state or of timber from the national forest. 16 U.S.C. § 516.

2. Acquired lands may be subject to an easement, right-of-way, or reservation retained by the grantor if the retained interest does not interfere with the use of the land to protect navigable streams or for the production of timber. 16 U.S.C. § 518.

3. SecAg may divide acquired lands into specific national forests. 16 U.S.C. § 521.

B. **Management**

1. SecAg determines whether the acquisition of lands is necessary to regulate the flow of navigable streams or for the production of timber. 16 U.S.C. § 515.

2. SecAg determines whether acquisition by exchange will benefit the public interest. 16 U.S.C. § 516.

3. SecAg determines the values of private lands and of national forest lands or timber exchanged therefor. 16 U.S.C. § 516.

4. SecAg may do whatever is necessary to secure safe title to acquired lands. 16 U.S.C. § 517.

5. SecAg may make payment for lands acquired by condemnation after the Attorney General verifies that the condemnation proceeding and decree are regular. 16 U.S.C. § 517a.

6. SecAg may determine whether tracts of land within acquired lands are chiefly valuable as agricultural lands and, if so, may sell the tracts as homesteads at their true value. 16 U.S.C. § 519.

7. SecAg determines the true value of agricultural lands sold as homesteads under § 519 and may issue rules and regulations for those sales. 16 U.S.C. § 519.

8. SecAg may permit the prospecting, development, and use of mineral resources on acquired lands on terms and for periods that are in the best interests of the United States. 16 U.S.C. § 520.

9. SecAg determines what terms and periods for mining permits are in the best interests of the United States. 16 U.S.C. § 520.

10. SecAg may issue general regulations concerning any mining activities on acquired lands. 16 U.S.C. § 520.

11. SecAg may enter into agreement with a state to cooperate in the maintenance and operation of a system of fire protection on private or state forest lands situated in the watershed of a navigable stream. 16 U.S.C. § 563.

III. Mandatory Conditions

A. **Other Statutes** – none

B. **Groups**

1. Federal agencies

a. Title documents to lands acquired by purchase or condemnation must be approved by the Attorney General. 16 U.S.C. § 517, 517a.

2. State and Local Agencies

a. Civil and criminal jurisdiction over persons in national forests remains in the state in which the acquired forest lands are located. 16 U.S.C. § 480, note.

b. SecAg must make a budget revenue estimate available to states for projections of § 500 payments. 16 U.S.C. § 500.

c. Jurisdiction over agricultural lands within acquired lands that has been sold as homesteads reverts to the state in which the land is located. 16 U.S.C. § 519.

3. Other – none

IV. Authorized Coordination

A. **Other Statutes**

1. Acquired lands are administered as national forests under § 471 (p. 3). 16 U.S.C. § 521.

B. **Groups**

1. Congressional consent is given for an interstate compact for the conservation of forests or water supplies. 16 U.S.C. § 552.

2. Cooperative agreements are authorized with states for a system of fire protection on private and state forest lands. 16 U.S.C. § 563.

V. Cross-references to Other Statutes

A. Compliance with § 471 is required. 16 U.S.C. § 521.

B. Act of May 23, 1908, is the starting date for payments of forest revenues to states. 16 U.S.C. § 500.

Note: The requirement that the exchanged lands have the same value is no longer applicable. Section 1716 of FLPMA (p. 65) authorizes equalization by cash payments of any disparity in values between the exchanged properties up to 25% of the value of the federal land being exchanged.

Exchange Act

42 Stat. 465, c. 106; 43 Stat. 1090 c. 375, 76 Stat. 1157; and 81 Stat. 531; 16 U.S.C. § § 485, 486, and 484a, as amended. March 20, 1922; February 28, 1925; October 23, 1962; and December 4, 1967.

Summary

The Act originally authorized the Secretary of Interior to acquire land within the exterior boundaries of national forests in the public interest by exchanging surveyed, non-mineral, forest lands of equal value in the same state or by exchanging an equal value of timber to be cut and removed by the other party. An amendment to the Act (Feb. 28, 1925, c. 375, 43 Stat. 1090) authorized either party to an exchange to make reservations of timber, minerals, and easements in exchanged lands. The functions of the Secretary of Interior were transferred to SecAg by the Transfer Act of June 11, 1960 (p. 37).

The exchange provisions analyzed below were significantly amended in 1976. Section 1716 of FLPMA (p. 65) now requires consideration of specific enumerated factors in determining whether an exchange is in the public interest and also authorizes exchanges of lands that are not of equal value if equalization payments are made.

I. Requirements and/or Standards

A. **Planning**

1. Acquisition of lands by exchange must benefit the public interest. 16 U.S.C. § 485.
2. Lands acquired by exchange must be chiefly valuable for national forest purposes. 16 U.S.C. § 485.
3. The value of the national forest lands or timber therefrom given in exchange for private lands must not exceed the value of the exchange lands received by USDA. 16 U.S.C. § 485.
4. Public notice of a proposed exchange must be given in the local area at least weekly for four consecutive weeks in advance of the effective date of the proposed exchange. 16 U.S.C. § 485.
5. Values in an exchange must be determined by departmental appraisals and an administrative record showing that the values are equal. Nat'l Forest Preservation Group v. Butz, 485 F.2d 408 (9th Cir. 1973).
6. National forest lands patented in an exchange must be surveyed and be nonmineral lands. 16 U.S.C. § 485.

B. **Management**

1. Timber given in exchange for land shall be cut and removed pursuant to laws regulating national forests and under the supervision of SecAg and according to SecAg's requirements. 16 U.S.C. § 485.
2. Mineral reservations in U.S. lands must be expressed in the patent and must retain surface rights to enable subsequent development of reserved minerals upon payment to the surface owner for any harm to surface. 16 U.S.C. § 486.
3. Reservations in lands conveyed to the U.S. must be subject to reasonable conditions of egress and ingress and right to use the surface. 16 U.S.C. § 486.
4. Money deposited by public school districts or authorities to complete an exchange involving insufficient land must be held in a special fund for the purchase of additional land in the same state as the selected land and suitable for the purposes of the selected land. 16 U.S.C. § 484a.
5. Lands acquired by the deposits of public school districts or authorities under § 484a are subject to the same rules, regulations, and laws as the selected land. 16 U.S.C. § 484a.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may accept title to land within a national forest in exchange for an equal value of national forest land in the same state or of timber from the national forest. 16 U.S.C. § 485.
2. Exchanged lands may be subject to reservation of timber, minerals, or easements by either party. 16 U.S.C. § 486.
3. SecAg may exchange up to 80 acres of national forest lands for lesser amounts of land from either public school districts or authorities if the difference in value between the selected national forest land and the exchange lands is deposited with USDA. 16 U.S.C.§ 484a.

B. **Management**

1. SecAg determines whether the exchange of national forest land will benefit the public interest. 16 U.S.C. § 485.
2. SecAg determines the values of private land and of the national forest lands or timber exchanged therefor. 16 U.S.C. § 485.
3. SecAg determines what conditions concerning ingress or egress and use of reservations in exchanged lands are necessary and reasonable. 16 U.S.C. § 486.

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies - none
2. State and Local Agencies
   a. Reservation of interests by the grantor of exchange land conveyed to the United States are subject to state tax laws of state in which lands are located. 16 U.S.C. § 486.
3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Note: Section 1716 of FLPMA (p. 65) must be consulted to determine the modification to the statutory requirements and authority for exchanges.

Clarke-McNary Act of 1924

43 Stat. 653, 654, and 655; 16 U.S.C. §§ 505, 564, 565, 566, 567, 568, 569, and 570. June 7, 1924.

Summary

The Act expanded the Weeks Forest Purchase Law (p. 9) to allow acquisition of lands valuable for timber production as well as those needed for watershed protection. The Act also authorized cooperative forestry programs with the states as well as federal assistance to state and private forestry. It extended to private parties the Weeks Law provision authorizing matching federal funds to states for fire protection activity. The Act also provided matching funds to assist in the distribution of seedlings for reforestation and assistance to farmers in developing small woodlots through the utilization of modern forestry practices.

I. Requirements and/or Standards

A. **Planning**

1. National forests created under 471(b) on lands reserved for the Army or the Navy shall be subject to the unhampered use and jurisdiction of the Army or Navy for the purposes of national defense, notwithstanding any provision to the contrary in § 471(b). 16 U.S.C. § 505.

2. SecAg shall spend such portions of the $40 million appropriation as SecAg deems necessary to study the effects of tax laws, methods, and practices upon forest perpetuation, to cooperate with state officials in devising tax laws designed to encourage the conservation and growing of timber, and to investigate and promote fire protection. 16 U.S.C. § 566.

3. SecAg must cooperate with land grant institutions (and may include other state institutions) in aiding farmers by programs concerning forestry practices and management. 16 U.S.C. § 568.

4. Expenditures for cooperative programs with land grant institutions shall not exceed the state expenditures for the same purpose. 16 U.S.C. § 568.

B. **Management**

1. SecAg in cooperation with state or agency officials, must recommend systems of forest fire prevention and suppression for each forest region of the United States, for the purpose of protecting forest and water resources and insuring the continuous production of timber on suitable lands. 16 U.S.C. § 564.

2. SecAg must cooperate, on fair and equitable terms, with appropriate officials of each state that has a forest fire protection system meeting the objectives of § 564 in protecting timbered or forest producing land from fire. 16 U.S.C. § 565.

3. Expenditures for cooperative fire protection systems with states shall not exceed the state expenditures, including private contributions mandated by state law. 16 U.S.C. § 565.

4. SecAg must cooperate with states to procure, produce and distribute forest-tree seeds and plants to establish windbreaks, shelter belts, and farm wood lots upon denuded or non-forested lands within states which cooperate in the program on conditions and requirements SecAg prescribes with the goal of effectively planting non-forested land and growing timber thereon. 16 U.S.C. § 567.

5. Expenditures for state cooperative programs under § 567 shall not exceed state expenditures. 16 U.S.C. § 567.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. Donated lands to USDA may be subject to reasonable reserved interests in the donor for periods not exceeding 20 years. 16 U.S.C. § 569.

2. Lands accepted as gifts to USDA must be large enough in size and suitably located for administration as or with other national forests. 16 U.S.C. § 569.

3. All lands accepted by SecAg as gifts become national forest lands and are subject to provisions of Weeks Law (p. 9). 16 U.S.C. § 569.

4. SecAg may determine the location of public lands valuable chiefly for stream-flow protection or timber production and which can be economically administered as parts of national forests, and the President then must report this information to Congress. 16 U.S.C. § 570.

B. **Management**

1. SecAg determines whether a state fire protection system under § 565 meets the objectives of § 564. 16 U.S.C. § 565.

2. SecAg determines the fair and equitable conditions for the Forest Service cooperation with a state in providing fire protection. 16 U.S.C. § 565.

3. In cooperating with states on fire protection systems SecAg must consider protection of watersheds of navigable streams, but may extend the cooperation to timbered or forest-producing lands or watersheds from which water is obtained for domestic or irrigation uses in the cooperating state. 16 U.S.C. § 565.

4. SecAg determines the conditions and requirements for cooperation with states to assure that forest-tree seeds or plants procured, produced, or distributed are used effectively to grow timber in cooperating states. 16 U.S.C. § 567.

5. SecAg determines which state agencies other than land grant institutions are available for cooperative agreements to aid farmers. 16 U.S.C. § 568.

6. SecAg may accept gifts of land for forest purposes and determines whether the donated lands are suitable for forest purposes. 16 U.S.C. § 569.

7. SecAg determines whether reserved interests to donated lands are reasonable. 16 U.S.C. § 569.

III. Mandatory Coordination

A. **Other Statutes**

1. Donated lands are administered as Weeks Law (p. 9) lands. 16 U.S.C. § 569.

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies

a. Cooperation is required with appropriate officials of the various states or other agencies, and through them with private groups, in recommending and implementing systems of forest fire prevention and suppression. 16 U.S.C. §§ 564, 565.

b. Cooperation is required with appropriate state officials in studying effects of laws and programs. 16 U.S.C. § 566.

c. Cooperation is required with the various states in the procurement and distribution of forest-tree seeds and plants. 16 U.S.C. § 567.

d. Cooperation through agreements with land grant institutions and other suitable state agencies is required. 16 U.S.C. § 568.

3. Other - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal agencies - none
2. State and local agencies - none
3. Other groups

a. Cooperative agreements must be made with suitable state agencies other than land grant institutions. 16 U.S.C. § 568.

V. Cross-references to Other Statutes

A. The Act amended § 471 (p. 3) to authorize presidential establishment of forests, to limit lands in certain states including forests, and to allow as additions to forests lands suitable for production of timber.

B. 16 U.S.C. § 471(b) (p. 3) in §§ 499 and 505.

C. 16 U.S.C. 513-17, 521, 500 and 501 in § 499.

D. Weeks Law (p. 9) in §§ 515 and 569.

E. 16 U.S.C. § 564 in § 565.

F. 16 U.S.C. §§ 564 and 565 in § 566.

G. Act of March 1, 1911, 16 U.S.C. § 513 in § 570.

H. The Act amended § 499 concerning disposition of Forest Service revenues to include receipts from the use or sale of products from forests created under § 471(b). 16 U.S.C. § 499.

I. SecAg may purchase forested, cut-over, or denuded lands in watershed of a navigable stream if necessary for the production of timber. 16 U.S.C. § 515 (p. 9).

Note: 16 U.S.C. § 471(b) was repealed effective October 21, 1976, by § 704(a) of NFMA (p. 61). 16 U.S.C. § 513 was repealed by FLPMA (p. 65). 16 U.S.C. §§ 564, 565, 566, and 567 were repealed by the Cooperative Forestry Assistance Act of 1978, § 13(a) of Public Law 95-313, to be codified as 16 U.S.C. § 2111 (p. 75).

Cooperation Between Secretary of Agriculture and Public or Private Agencies in Working Land Under State or Private Ownership

43 Stat. 1132; 16 U.S.C. § 572, as amended. March 3, 1925.

Summary

The Act authorizes SecAg to cooperate with various public and private parties, including occupiers or users of national forests or lands administered by the Forest Service, to perform work on non-federal land within or near national forests. The party requesting the work must deposit the total estimated cost of the work with SecAg in advance. The federal government shall not be liable to the depositor and landowner for any damage from the performance of the work.

I. Requirements and/or Standards

A. **Planning**

1. The Forest Service shall not be liable to the landowner or depositor for any damage resulting from the performance of the requested work. 16 U.S.C. § 572(a).

B. **Management**

1. Work done by the Forest Service on non-federal land at the request of an interested party must be preceded by an advance deposit of the total estimated cost of the work or by a written reimbursement agreement. 16 U.S.C. § 572(a).
2. Work done by the Forest Service on non-federal lands at the request of interested parties must be the same type of work that the Forest Service may perform on federal lands. 16 U.S.C. § 572(a).
3. Deposits received under this section shall become a special fund in the general treasury to be used for paying the actual cost of the work performed and refunding the proportionate share of any excess deposits to the depositor. 16 U.S.C. § 572(c).
4. Reimbursement of Forest Service expenditures from other appropriations for work on non-federal land pursuant to a written agreement must be credited to the Forest Service appropriation from which it initially came. 16 U.S.C. § 572(c).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. When the public interest justifies, SecAg may cooperate or assist public or private groups in working land situated near or within a national forest and under the state or private ownership. 16 U.S.C. § 572(a).
2. When the public interest justifies, SecAg may cooperate or assist users or occupiers of national forests or other lands administered by the Forest Service in working those lands. 16 U.S.C. § 572(a).
3. SecAg determines when the public interest justifies the Forest Service working on federal land or working national forest land under use or occupancy permits to non-federal parties. 16 U.S.C. § 572.

B. **Management**

1. If deposits are received for similar types of work on adjacent or overlapping land areas, the deposits may be expended for the work as a single unit for the combined areas and any refunds must be on a proportionate basis. 16 U.S.C. § 572(c).
2. The Forest Service may enter into a written agreement for the payment of § 572 work from any Forest Service appropriation for similar type of work on a proportionate reimbursement basis. 16 U.S.C. § 572(c).
3. If, pursuant to a written agreement, a party furnishes more than its proportionate share of materials, supplies, equipment, or services for fire emergencies, the excess of this proportionate share may be accounted for by adjusting its reimbursement under the agreement or by replacing the provided materials, supplies, equipment, or services in kind. 16 U.S.C. § 572(c).

III. Mandatory Coordination - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies - none
2. State and Local Agencies
   a. SecAg may cooperate with public or private agencies, organizations, institutions, and persons in working land under state or private ownership. 16 U.S.C. § 572(a).
3. Other
   a. SecAg may cooperate on the same basis as with state, local, or an individual party in providing work on national forests or other lands administered by the Forest Service under an occupancy or use permit. 16 U.S.C. § 572(b).

V. Cross-references to Other Statutes - none

McSweeney-McNary Act of 1928

45 Stat. 699; 16 U.S.C. §§ 581–581i, as amended.
May 22, 1928.

Summary

The Act is the enabling authority for experimental forestry. It directs SecAg to conduct investigations, tests, and experiments to determine the best methods of forest management. Topics of investigation range from animal histories to the chemical properties of wood. The purpose of the investigations is to determine the most effective methods of forest management and promulgate the economic considerations which underlie an effective system of forest management and use of forest products.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must: (1) conduct necessary experiments, investigations, and tests to determine the best methods of forest management, soil and water conservation, fire protection, and disease and insect control for the fullest and most effective use of forest lands; and (2) establish the economic considerations that underlie a sound policy of forest management. 16 U.S.C. § 581.

B. **Management**

1. SecAg must conduct renewable resource survey and analysis under fair and equitable plans. 16 U.S.C. § 581h.

2. SecAg must make and keep current a survey of the present and future requirements for the renewable resources of the forest and range lands, the supply of those resources, and the demand factors to balance them to meet needs of the United States. 16 U.S.C. § 581h.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg determines what experimental work is necessary under § 581. 16 U.S.C. § 581.

2. SecAg may maintain forest experiment stations for the purpose of conducting fire, silviculture, and other forest investigations for the forest regions and states indicated in the Act. 16 U.S.C. § 581a.

B. **Management**

1. For the purpose of securing a site for the "Great Plains Forest Experiment Station," SecAg is given the power to condemn real property that is necessary to serve the purposes of that forest experiment station. 16 U.S.C. § 581a.

2. SecAg may receive money contributions to carry out the purposes of the Act on conditions imposed by SecAg. 16 U.S.C. § 581.

3. SecAg determines what plans are fair and equitable for the renewable resource survey and analysis. 16 U.S.C. § 581h.

III. Mandatory Coordination

1. SecAg must cooperate with state and private parties in doing the renewable resource survey. 16 U.S.C. § 581h.

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal and State Agencies

a. SecAg may cooperate with national or foreign, public and private agencies, and individuals for the investigations, experiments, and tests of foreign woods as permitted under the Act. 16 U.S.C. § 581.

V. Cross-references to Other Statutes

A. Sections 581a and 581b–581i in § 581.

Note: Most of the provisions not separately covered authorized annual appropriations for specific purposes, e.g., § 581b (diseases of forest trees and products); 581c (insects); and 581d (life histories of habits of forest wildlife and birds).

Section 581h has been significantly modified by RPA and NFMA (p. 61).

The McSweeney-McNary Act, 16 U.S.C. §§ 581, 581a and 581b–581i, was repealed by the Forest Rangeland Renewable Resources Research Act of 1978, § 8(a) of Public Law 95–307, to be codified as 16 U.S.C. § 1647 (p. 73), effective October 1, 1978. Under the 1978 Act, however, all existing contracts and cooperative agreements under the McSweeney-McNary Act remain in effect until revoked or amended by their terms or other law.

Knutson-Vandenberg Act

46 Stat. 527, c. 416; 16 U.S.C. § § 576, 576a, and 576b. June 9, 1930.

Summary

The Knutson-Vandenberg Act of 1930 authorized SecAg to establish tree nurseries and do other necessary work for reforestation. A specific amount was appropriated for these activities and SecAg was authorized to collect funds (up to the average cost of replanting) for this purpose from timber purchasers. Section 576b was amended by NFMA (p. 61) to allow SecAg to collect funds from timber purchasers for "protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including. . .maintenance and construction, reforestation, and wildlife habitat management." Section 18, National Forest Management Act (p. 61).

I. Requirements and/or Standards - none

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may require purchasers of timber from national forest lands to pay enumerated costs of reforestation, if the payment is in the public interest. 16 U.S.C. § 576b.

B. **Management**

1. SecAg may establish and operate tree nurseries and conduct other activities necessary for reforestation. 16 U.S.C. § 576.

III. Mandatory Coordination - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies
   a. SecAg may furnish seedlings for reforestation of burned-out national park land upon the request of the Secretary of Interior. 16 U.S.C. § 576b.
2. State and Local Agencies - none
3. Other - none

V. Cross-references to Other Statutes

A. § 576a in § 576.

Bankhead-Jones Farm Tenant Act of 1937

50 Stat. 522; 7 U.S.C. § § 1010–1012 and 1013a, as amended. July 22, 1937.

Summary

The Act requires development of a program of land conservation and land use to correct maladjustment in land use. Included is gathering soil, water, and related resources data necessary to land conservation, to guide community development, to identify prime agricultural lands, and to protect the environment. The Act originally contemplated a conservation program that would include provisions for "the retirement of lands which are submarginal or not primarily suitable for cultivation"; those provisions, however, were eliminated in 1962.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must develop a program of land use and land conservation in order to correct land use maladjustments and thus to assist in controlling soil erosion, reforestation, preserving national resources, protecting fish and wildlife, developing and protecting recreational facilities, mitigating floods, preventing dam and reservoir impairment, conserving surface and subsurface moisture, protecting watersheds of navigable streams and public lands, and protecting health, safety, and welfare. 7 U.S.C. § 1010.

2. SecAg's program of land utilization and land conservation cannot include construction of industrial parks or private industrial or commercial enterprises. 7 U.S.C. § 1010.

3. SecAg must conduct a land inventory and monitoring program including studies and surveys of erosion and sediment damages, floodplain identification and utilization, land use changes and trends, and environmental degradation resulting from improper use of soil, water and related resources. 7 U.S.C. § 1010a.

4. At least every five years SecAg must issue a land inventory report reflecting soil, water, and related resource conditions. 7 U.S.C. § 1010a.

B. **Management**

1. Disposition of acquired property must be for a public purpose and can only be made to public agencies. 7 U.S.C. 1011(c).

2. SecAg must pay 25% of the revenues from the use of the land held under the Act to the county in which the land is located on the condition the payment is used for school or road purposes. 7 U.S.C. § 1012.

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. SecAg may perform the following acts to carry out the land conservation and land utilization program in § § 1010 and 1010a.

a. Protect, improve, develop, and administer any acquired property and build any structure on it necessary to adapt that land to its most beneficial use; 7 U.S.C. § 1011(b);

b. Sell, exchange, lease, or otherwise dispose of acquired property on terms and conditions that will best accomplish purposes of the Act, 7 U.S.C. § 1011(c);

c. Recommend to the President, other federal, state, or territorial agencies to administer the acquired property on conditions of use and administration that serve the purposes of the land conservation and land utilization program, id.;

d. Make dedications or grants on acquired property for any public purpose, 7 U.S.C. § 1011(d);

e. Grant licenses and easements upon reasonable terms, 7 U.S.C. § 1011(d);

f. Cooperate with federal, state, and other public agencies in developing programs of land conservation, development, and utilization of water for acquacultural purposes. 7 U.S.C. § 1011(e).

g. Make loans to states or state authorized public agencies to carry out the land and water conservation plans, 7 U.S.C. § 1011(e); and

h. Conduct surveys and investigations about factors and conditions affecting, and methods of achieving, the purposes of the Act, 7 U.S.C. § 1011(e).

2. SecAg determines what terms and conditions on disposition of acquired property will accomplish the purposes of the Act. 7 U.S.C. § 1011(c).

3. SecAg determines if values in exchange of acquired property are substantially equal. 7 U.S.C. § 1011(c).

4. SecAg determines the public purpose for which acquired land may be sold, exchanged, leased, dedicated, or granted. 7 U.S.C. § 1111(c) and (d).

5. SecAg determines what terms on leases and licenses are reasonable. 7 U.S.C. § 1011(d).

III. Mandatory Coordination – none

IV. Authorized Coordination

A. **Other Statutes**

1. Any exchanges made with private landowners must comply or, at least, not conflict with Title 7, § § 1001–1005d, 1006, 1006c–1006e, 1007, and 1008–1029, 7 U.S.C. § 1011(c).

B. **Groups**

1. SecAg must cooperate with federal, state, territorial, and other public agencies for developing plans for carrying out the purposes of § 1010 and § 1010(a). 7 U.S.C. § 1011.

V. Cross-references to Other Statutes

A. § 1010 in 7 U.S.C. § 1011.

B. § § 1001–1005d, 1006, 1006a–1006e, 1007, and 1008–1029 in 7 U.S.C. § 1011(c).

C. § § 1010–1013 in 7 U.S.C. § § 1011(d) and 1012.

D. Land and Water Conservation Fund Act of 1965 in 7 U.S.C. § 1011(e).

Note: The bonus for states to develop land conservation plans and water plans for agricultural purposes contain lengthy provisions concerning duration, repayment, interest, approval by states, and puposes for which money can be used. Storage facilities must meet requirements of the Land and Water Conservation Fund Act of 1965 (p. 127). The right-of-way provisions have been repealed insofar as they relate to National Forest System Lands by NFMA (p. 61). The exchange provisions have been significantly modified by § 206 of FLPMA (p. 65).

Sustained Yield Forest Management Act

58 Stat. 132; 16 U.S.C. § § 583–583i. March 29, 1944.

Summary

To promote the continuous supply of timber and forest products and to secure forest benefits in water supply maintenance, stream flow regulation, soil erosion prevention, climate amelioration, and wildlife preservation, this Act provides for coordinated management of private and federal forest lands through creation of cooperative sustained yield units and cooperative agreements with private parties.

I. Requirements and/or Standards

A. **Planning**

1. Advance notice of the creation of a sustained yield unit or a cooperative agreement must be given by registered or certified mail to each affected landowner and to the general public by publication in a general circulation newspaper. The notice must state (1) the unit's location, (2) the proposed cooperator's name, (3) the agreement and its duration, (4) the location and quantity of the timber on the cooperator's land and the federal lands, (5) the timber cutting rate, (6) the time and place of a public hearing to be held at least 30 days after the first publication of notice for presentation of impacts on the community from the action. 16 U.S.C. § 583d.

2. Any noncompetitive sale agreement of less than $500 stumpage value must be preceded by notice published weekly for four consecutive weeks, providing; (1) the timber's quantity and value, (2) the time and place for a public hearing not less than 30 days after first publication if one is requested by a state, county, or person with a reasonable interest in the proposed sale, and (3) the place where a request for a public hearing can be made. If a hearing is requested within 15 days of the first published notice, notice of the hearing must be given at least ten days before the time set for the hearing in the same manner as provided in the original notice. 16 U.S.C. § 583d.

3. SecAg's determination of the proposals considered at the hearings, which may include a modification of the program, and the minutes of the hearing must be available for public inspection during the life of the agreement. 16 U.S.C. § 583d.

B. **Management**

1. Each cooperative agreement shall: (a) set the time, date and harvesting method for the landowner's property based on due consideration of the timber's character and condition, the relationship of the proposed cutting to the plan, and the land's productive capacity; (b) prescribe the terms which must be included in the contract of sale, but not the price for which the landowner may sell forest products from his land; and (c) contain any provisions SecAg deems necessary to protect the reasonable interest of other owners or to carry out the purposes of the Act. 16 U.S.C. § 583a.

2. Each cooperative agreement must be recorded in the county records of the location of the private land; the recorded agreement is binding for the life of the agreement on successors to the owner's interest and purchasers of forest products from the land. 16 U.S.C. § 583a.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. In the public interest, SecAg may by formal declaration establish cooperative sustained yield units consisting of federally owned land and land which reasonably may be expected to be made the subject of cooperative agreement with private landowners under the Act. 16 U.S.C. § 583.

2. Specifically to maintain the stability of communities primarily dependent on the sale of forest products from federal lands when stability cannot be secured by usual sale procedures, SecAg may establish a sustained yield unit consisting of Forest Service land by a formal declaration that defines the boundaries of the area to be benefited. From that area SecAg may sell forest products without competitive bidding to responsible purchasers within the area at not less than appraised values. 16 U.S.C. § 583b.

3. The cooperative agreements which SecAg may make are limited to forest land or natural resources in which the United States has an interest sufficient to control the management or disposition of the land's forest products, except land whose purpose of withdrawal would be inconsistent with a sustained yield concept or Indian lands without the consent of the Indians concerned. 16 U.S.C. § 583f.

B. **Management**

1. Cooperative agreements under the Act may give the cooperating landowner the privilege of non-competitive purchasing of forest products from the unit in accordance with the sustained yield management plan at not less than appraised values, subject to periodic readjustment of stumpage rates and to such conditions as SecAg prescribes. 16 U.S.C. § 583a.

2. If any private party to a cooperative agreement fails to comply with its terms or a timber purchaser fails to comply with the contract of sale, SecAg may request the Attorney General to institute proceedings in a federal district court to compel compliance. 16 U.S.C. § 583e.

3. Costs of recording cooperative agreements and of publishing notice required under this Act may be paid out of any funds available for protection or management of the federal land involved. 16 U.S.C. § § 583a, 583d, 583i.

4. SecAg may make appropriate regulations to carry out this Act and delegate his authority to others in the USDA. 16 U.S.C. § 583g.

5. This Act is not intended to restrict SecAg's authority to manage Forest Service lands. 16 U.S.C. § 583h.

III. Mandatory Coordination - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal, State, and Local Agencies

a. To carry out the Act's purpose SecAg may enter into cooperative agreements with any federal agency or state or local government to include land within its jurisdiction in a sustained yield plan. 16 U.S.C. § 583c.

2. Other

a. To carry out the statutory purpose SecAg may enter into cooperative agreements with private landowners providing for the coordinated management of the private and federal land within the sustained yield plan unit. 16 U.S.C. § 583a.

V. Cross-references to Other Statutes - none

Department of Agriculture Organic Act of 1944

58 Stat. 537; 16 U.S.C. §§ 526–27, 554b, 555c, 559a, 572a, 579a, 580, and 580a. September 21, 1944.

Summary

This Act details the expenditure of funds by the Forest Service for the protection and acquisition of water rights, for the administration of lands purchased or transferred to the Forest Service, and for other Forest Service activities, equipment, and personnel.

I. Requirements and/or Standards

A. **Planning** – none

B. **Management**

1. The Forest Service must make available money for medical supplies and services necessary for the immediate relief of those employees engaged in hazardous work, including notification of next of kin and transportation to a point where public transportation is available. 16 U.S.C. § 554b.

2. The Forest Service must make available its appropriations, as expressly limited therein, to care for graves of Forest Service employees who have been killed while fighting forest fires. 16 U.S.C. § 554c.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The Forest Service may purchase, contract, or otherwise obtain air facilities and services necessary to administer and protect national forest lands and other Forest Service lands. 16 U.S.C. § 579a.

B. **Management**

1. Necessary funds are authorized to be appropriated by the Forest Service for the establishment of water rights, including purchase of water rights, land, interests in land, rights-of-way for use and protection of water rights necessary or beneficial in the administration and public use of the national forests. 16 U.S.C. § 526. (Water rights must be acquired in compliance with state law if they are not within the federal reserved water rights, United States v. New Mexico, 238 U.S. 696 (1978), and this section authorizes purchase of water rights.)

2. Forest Service funds available for the protection and management of national forests may be used to administer lands subject to a contract for purchase or to condemnation proceedings being obtained under the Weeks Law (p. 9) or Clarke-McNary Act (p. 13) or lands transferred to the Forest Service. 16 U.S.C. § 527.

3. SecAg may pay rewards from lands appropriated for the protection and management of national forests to persons providing information leading to the arrest and conviction of persons violating forest fire laws or persons stealing or taking government property. 16 U.S.C. § 559a.

4. The Forest Service may accept money from timber purchasers to be deposited in a "Forest Service Cooperative Fund" that shall be available for scaling services requested by the purchasers in addition to those required by the Forest Service or refunded if the additional work costs less than the amount deposited. 16 U.S.C. § 572a.

5. The use of Forest Service motor and other equipment by different projects of the Forest Service and other federal agencies may be reimbursed at rental rates based on actual cost set by the Chief Forester. Reimbursement moneys may come from appropriations for the projects or agencies to the Forest Service appropriation for the maintenance of the motor or other equipment. 16 U.S.C. § 580.

6. The Forest Service may sell and distribute on a reimbursement basis supplies and equipment to state and private agencies which must cooperate with the Forest Service in fire control under cooperative agreements. 16 U.S.C. § 580a.

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies – none
3. Other

a. Forest Service appropriations may be used to pay and provide necessary medical care for workers involved in hazardous duty. 16 U.S.C. § 554b.

IV. Authorized Coordination

A. **Other Statutes**

1. Funds may be expended for acquisition of condemnation of lands acquired under Weeks Law and Clarke-McNary Act. 16 U.S.C. § 527.

B. **Groups**

1. Federal Agencies

a. Rent reimbursement is authorized for the use of Forest Service motor and other equipment. 16 U.S.C. § 580.

2. State and Local Agencies

a. Rent of fire control equipment is authorized to states. 16 U.S.C. § 580.

3. Other

a. The "Forest Service cooperative fund" is established for timber purchasers. 16 U.S.C. § 572a.

b. Reward payments are authorized. 16 U.S.C. § 579a.

V. Cross-references to Other Statutes

A. Weeks Law (p. 9) and Clarke-McNary Act (p. 13) in § 527.

B. The Act amends 16 U.S.C. § 500 by determining the value of forest products by stumpage value for purposes of payment to states.

C. The Act amends 16 U.S.C. § 501 to have the value of forest products based on stumpage value to determine the amount available for national forest roads.

National Forest Reforestation and Revegetation Act

63 Stat. 763; 16 U.S.C. §§ 581j–581k. October 11, 1949.

Summary

The Act establishes congressional policy of reforestation of denuded or unsatisfactorily stocked timber lands and revegetation of seriously depleted range lands. It also authorizes appropriations for revegetation and reforestation purposes, including the operation of nurseries.

I. Requirements and/or Standards

A. **Planning**

1. The Forest Service must implement the congressional policy of necessary reforestation and revegetation on a continuing basis on any lands subject to its administration and control. 16 U.S.C. § 581j.

B. **Management**

1. Forest Service implementation of the congressional reforestation and revegetation policy must seek the benefits identified in Joint Resolution 53, Oct. 11, 1949, which includes water supply, watershed protection, forest products and timber, and summer range for sheep and cattle as the objectives of reforestation and revegetation programs on Forest Service lands. 16 U.S.C. §§ 581j and k.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The Forest Service determines what reforestation and revegetation is needed on a continuous basis to carry out the congressional policy in § 581j. 16 U.S.C. §§ 581j and k.

B. **Management** – none

III. Mandatory Coordination – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes

A. Joint Resolution 53, 63 Stat. 762, Oct. 11, 1949, in 16 U.S.C. §§ 481j and k.

Note: This Act should be considered in light of NFMA (p. 61) which establishes a priority for reforestation of cut-over lands.

Granger-Thye Act

64 Stat. 83, 84, 85, 86, 87, and 88; 16 U.S.C. § § 504a, 571c, 580c–580ℓ, and 581i–ℓ. April 24, 1950.

Summary

The Act provides authority for a variety of miscellaneous activities including disposition of forest-tree seed and nursery stock, construction of facilities on non-Forest Service land, use and fees for Forest Service recreational areas, long-term leases, the acquisition, maintenance, and improvement of rangelands, and cooperative contracts.

I. Requirements and/or Standards

A. **Planning**

1. An exchange of forest-tree seed or nursery stock for that of a different or the same species must be in the interest of the United States. 16 U.S.C. § 504a.

2. The right to use non-federal land on which buildings may be constructed must be obtained for the life expectations of the buildings and sufficient time to remove the structure after the right to use ends before any Forest Service funds may be expended to construct the building or lookout tower on the non-federal lands. 16 U.S.C. § 571c.

3. SecAg shall provide 30 days prior notice of the issuance of any regulations or their amendment under § § 490, 500, 504, 504a, 555, 557, 571c, 572, 579a, 580c to 580ℓ, and 581 that concern administration of grazing on national forests and which SecAg determines substantially modifies existing policy on grazing on national forests or materially affect permittees' preferences. 16 U.S.C. § 580k.

4. Grazing permits shall not affect the title of United States to any land or resource. 16 U.S.C. § 580ℓ.

B. **Management**

1. The price to states, their political subdivisions, or agencies for forest-tree seed and nursery stock must be the actual or estimated cost to the United States of procuring or producing it. 16 U.S.C. § 504a.

2. Money received from the sale of forest-tree seed or nursery stock must be credited to the Forest Service appropriation available to replenish the item sold. 16 U.S.C. § 504a.

3. The value of forest-tree seed or nursery stock given in an exchange must not exceed the value of the property received. 16 U.S.C. § 504a.

4. No nursery stock can be sold or exchanged for use as ornamental or other stock for landscape planting of the types commonly grown by established commercial nurserymen. 16 U.S.C. § 504a.

5. SecAg must deposit receipts in excess of $10,000 in any fiscal year from reimbursement for food, lodging, fuel, and other services from users of national forests in the Treasury as miscellaneous receipts, and amounts less than $10,000 in any fiscal year must be credited to the appropriation from which the expenditure was made. 16 U.S.C. § 580e.

6. No payment may be made for seeding over 1000 acres of land under Forest Service lease in single private ownership. 16 U.S.C. § 580g.

7. No payment may be made for seeding more than 25,000 acres of private lands under Forest Service lease in any fiscal year. 16 U.S.C. § 580g.

8. No lease of private lands for which seeding payments are made can exceed 20 years. 16 U.S.C. § 580g.

9. Injury benefits must be paid temporary Forest Service employees under specific circumstances and stated conditions. 16 U.S.C. § 580j.

10. Rules and regulations governing the organization and election of grazing advisory boards must be consistent with § 580k and approved by SecAg. 16 U.S.C. § 580k.

11. SecAg must recognize a local grazing advisory board selected pursuant to approved rules as representing the grazing permittees of the national forest or administrative subdivision thereof for which the local advisory board was selected. 16 U.S.C. § 580k.

12. The local grazing advisory board must have at least three, and not more than twelve, national forest grazing permittees from the area represented by the board as members and may have a wildlife representative appointed by a state or public body as a member. 16 U.S.C. § 580k.

13. Upon the request of any party affected thereby, SecAg must refer to the appropriate local advisory board for its advice and recommendations on any matter pertaining to (1) the modification, renewal, denial, or reduction in a grazing permit, or (2) the establishment or modification of an individual or community allotment. 16 U.S.C. § 580k.

14. If SecAg disregards, modifies, or overrules the local advisory board recommendation on permit or allotment matters, SecAg must provide the board with a written statement of reasons for the action. 16 U.S.C. § 580k.

15. If SecAg overrules, disregards, or modifies a local advisory board's recommendation received pursuant to a notice of issuance of regulations affecting the administration of grazing on national forests, SecAg must provide the local advisory board written reasons for the action. 16 U.S.C. § 580k.

16. SecAg may regulate grazing on national forests and other lands by issuing or renewing grazing permits for livestock for terms not exceeding 10 years. 16 U.S.C. § 580ℓ.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may permit the use of Forest Service structures or improvements and land for periods of up to 30 years by public or private agencies, organizations, or individuals subject to regulations prescribed by SecAg. 16 U.S.C. § 580d.

2. SecAg may provide persons using national forest resources and recreational facilities or attending Forest Service demonstrations food, lodging, fuel, and other services on an actual or estimated cost reimbursement basis (to the appropriated funds from which cost was paid) if the services are not otherwise available. 16 U.S.C. § 580e.

B. **Management**

1. SecAg may sell or exchange forest-tree seed and nursery stock to state, local, and foreign public agencies. 16 U.S.C. § 504a.

2. SecAg determines the conditions on which sale of forest-tree seed and nursery stock will be made. 16 U.S.C. § 504a.

3. The Forest Service may use its appropriations to construct lookout towers or other facilities on non-federally owned lands. 16 U.S.C. § 571c.

4. The Forest Service may spend up to $50,000, but not more than $10,000 on one item, for test or experimental materials or for designing or developing new equipment. 16 U.S.C. § 480c.

5. SecAg may issue regulations governing use permits for Forest Service structures or improvements and land. 16 U.S.C. § 580d.

6. All or part of the consideration for use permits under § 580d may be the permittee's agreement to maintain or recondition the structure, improvement, or land in a satisfactory condition at permittee's expense. 16 U.S.C. § 580d.

7. SecAg determines what constitutes a "satisfactory standard" in which the structure, improvement, and land subject to a use permit must be maintained. 16 U.S.C. § 580d.

8. If SecAg determines that residential phone service is necessary to protect national forests and other Forest Service lands, appropriations for the protection and management of national forests and other lands shall be used to pay installation costs, monthly charges, and actual charges for public business to Forest Service employees or other private parties in the area requiring the phone installation. 16 U.S.C. § 580f.

9. SecAg may pay part or all of the costs of leasing, seeding, and protective fencing of public range land or other Forest Service administered land and privately owned land intermingled with or adjacent to the Forest Service land if it is in the public interest and if the Forest Service controls the use of the land to be seeded by lease or other agreement for sufficient time to justify the expenses. 16 U.S.C. § 580g.

10. SecAg determines whether the leasing, seeding, or protective fencing of Forest Service land and intermingled or adjacent private land is in the public interest. 16 U.S.C. § 580g.

11. SecAg determines whether the lease or agreement respecting private lands to be seeded gives the Forest Service control for a sufficient period of time to justify the expense. 16 U.S.C. § 580g.

12. SecAg may prescribe regulations for range improvement using appropriated funds based on receipts from grazing fees the prior fiscal year, the funds to be expended on the national forest generating the fees. 16 U.S.C. § 580h.

13. Authorizations for appropriations are made for the purchase of specific land on stated terms. 16 U.S.C. § 580i.

14. SecAg may make advances of public money to facilitate cooperative research as deemed advisable with public and private agencies, organizations, institutions, and individuals. 16 U.S.C. § 580i-1.

III. Mandatory Coordination

A. **Other Statutes**

1. 40 U.S.C. § 255 declared inapplicable to § 571c activities.

2. 41 U.S.C. § 5 declared inapplicable to § 580c activities.

3. 31 U.S.C. § 679 declared inapplicable to § 580c activities.

4. 31 U.S.C. § 529 delcared inapplicable to § 581i-ℓ, activities.

B. **Groups**

1. Federal Agencies

a. Cooperation with Secretary of Labor is required concerning injury benefits to temporary employees. 16 U.S.C. § 580j.

b. Cooperation with state, federal, and private groups is required under § § 581i-ℓ, 580k (1) (3), 572, 504a, 580d, and 580ℓ.

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. 64 Stat. 84 amended § 490 to use excess deposits for special account rather than return them to depositors.

B. 64 Stat. 83 amended § 504 to increase the price limitation from $500 to $10,000.

C. § 555 was amended to authorize purchase of dwelling sites and added monetary and other restrictions.

D. § 557 was amended to include temporary employees among those eligible for services.

E. § 572 was amended to authorize the Forest Service to provide various services on a reimbursable basis.

F. § 579a was amended to include aerial facilities and services.

Note: The issuance of grazing permits, the term of permits, distribution of grazing fees, and use of grazing fees for range improvement on national forest lands in the eleven Western States has been affected by FLPMA (p. 65).

Cooperative Forest Management Act

64 Stat. 473; 16 U.S.C. §§ 568c and 568d. August 25, 1950.

Summary

The purpose of this Act is to expand the cooperative assistance programs of the Clarke-McNary Act. The Act authorizes SecAg to cooperate with states to provide technical assistance to private landowners, forest operators, and timber processors. Financial assistance is authorized on a matching funds basis to cooperating states.

I. Requirements and/or Standards

A. **Planning**

1. Technical services provided to landowners, forest operators, wood processors, or public agencies under § 568c must be according to a plan agreed upon in advance between SecAg and the cooperating state's forester or appropriate official. 16 U.S.C. § 568c.

2. SecAg must determine what appropriated funds shall be spent, how those funds shall be apportioned among participating states, and what administrative expenses are appropriate. 16 U.S.C. § 568d.

3. SecAg must consult with a national advisory board of at least five state foresters or equivalent officials selected by a majority of the participating state foresters or equivalent officials before making the required determination about appropriated funds. 16 U.S.C. § 568d.

B. **Management**

1. The cooperative assistance plans between SecAg and states must encourage the use of private agencies and individuals to provide the technical services authorized under the Act. 16 U.S.C. § 568c.

2. The federal government's contribution for cooperative action shall not exceed the participating state's contribution to the program. 16 U.S.C. § 568d.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may cooperate with a state forester or appropriate official through a plan that encourages states to provide technical assistance about multiple use management, environmental protection, and improvement of forest lands, harvesting, marketing, and processing of forest products, and the protection, improvement, and establishment of trees and shrubs in urban areas, communities, and open spaces. 16 U.S.C. § 568c.

B. **Management**

1. SecAg may disburse appropriated funds to a participating state upon certification from the appropriate state official that authorized expenditures have been made. 16 U.S.C. § 568d.

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies

a. SecAg must cooperate with the state forester or equivalent officer in developing and implementing cooperative assistance plans with the participating state. 16 U.S.C. § 568c.

b. SecAg must consult with a national advisory board of state foresters from participating states in determining apportionment and expenditures of funds appropriated for cooperative assistance plans. 16 U.S.C. § 568d.

3. Other – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes – none

Note: This Act was repealed by the Cooperative Forestry Assistance Act of 1978, § 13(a) of Public Law 95-313, to be codified at 16 U.S.C. § 2111 (p. 75) effective October 1, 1978. Existing contracts and agreements under the Act remain in effect until revoked or amended by their terms or other laws.

Agriculture Act of 1956

70 Stat. 207; 16 U.S.C. § § 568e and g, as amended. May 28, 1956.

Summary

The Act declares the congressional policy of encouraging, promoting and assuring fully adequate future resources of readily available timber through federally assisted state programs. The Act authorizes SecAg to develop and implement programs to assist states in reforestation and tree planting. The federal assistance includes advice, technical assistance, and financial aid.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must assist states in implementing an approved forest land tree planting and reforestation plan. 16 U.S.C. § 568e(c).

2. The federal government's financial contributions to assist implementation of a state plan shall not exceed the state's contribution to the plan for any fiscal year. 16 U.S.C. § 568e(c).

B. **Management** - none

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may approve a state plan that has been submitted by a state forester or equivalent state official for tree planting and reforestation to provide adequate supplies of readily available timber. 16 U.S.C. § 568e(b).

2. SecAg may make financial contributions based on certification by an appropriate state official concerning the state expenditure to implement an approved plan. 16 U.S.C. § 568e(c).

B. **Management**

1. The federal assistance under an approved state plan may include advice, technical assistance, and financial contributions. 16 U.S.C. § 568e(c).

2. SecAg may prescribe appropriate rules and regulations to implement § 568e. 16 U.S.C. § 568e(e).

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. SecAg must obtain the cooperation and assistance of the federal agency having jurisdiction over land not managed by the Department of Agriculture but included in a submitted state plan. 16 U.S.C. § 568e(d).

2. State and Local Agencies

a. SecAg must cooperate with the state forester or other appropriate state official in approving submitted plans. 16 U.S.C. § 568e(b).

b. SecAg must cooperate with the appropriate state forester in the approval and carrying out of a plan that coordinates forest lands under the jurisdiction of any federal agency other than the Department of Agriculture. 16 U.S.C. § 568e(d).

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Note: Hawaii was included within the word "state" as used in § 568e by 72 Stat. 986, May 28, 1956, which added § 568g to the Act.

Forest Service Omnibus Act of 1958

72 Stat. 216, 217, and 218; 16 U.S.C. § § 556b, 556c, 565b, and 579c. June 20, 1958.

Summary

The Act authorizes payment to Forest Service employees of costs incurred in transportation in Alaska and for reimbursement for personal property loss due to natural casualties. The Act also authorizes transfer of fire control towers and other improvements to state or other public agencies. It also made funds received by bond forfeitures, judgments, or claim settlements available to pay for improvement, protection, or rehabilitation of Forest Service lands.

I. Requirements and/or Standards

A. **Planning**

1. Title to fire lookout towers or other fire control improvements transferred by the Forest Service to states, subdivisions, or agencies after they are no longer needed by the Forest Service must revert and revest in the United States if either (1) the transferred property is not put to use for the purpose for which it was transferred within two years of the date of transfer, or (2) if within fifteen years after the date of transfer the transferred property ceases to be used toward the purposes for which it was transferred for a period of two years. 16 U.S.C. § 565b.

B. **Management**

1. Monies received from bond or deposit forfeitures, judgments, or claim settlement involving the rehabilitation, improvement, or protection of lands by a permittee or timber purchaser, must be spent doing the improvement, protection, or rehabilitation work that was necessitated by the action causing the forfeiture, judgment, or settlement. 16 U.S.C. § 579c.

2. Any funds received from bond or deposit forfeiture, judgment, or claim settlement, and not expended in the improvement, protection, and rehabilitation of the land necessitated by the action causing receipt of the funds must be transferred to miscellaneous receipts. 16 U.S.C. § 579c.

3. Any land transferred by SecAg to a state or its subdivisions in connection with fire lookout towers or other improvements must be outside the boundaries of a national forest. 16 U.S.C. § 565b.

4. Fire lookout towers, structures, and other improvements or land connected thereto transferred to states or its subdivisions must not be needed by the Forest Service for their intended purposes and must be of value to the state or political subdivision in its fire protection system. 16 U.S.C. § 565b.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may issue regulations prescribing for the payment of costs incurred by Forest Service employees in transporting employees' automobiles between points in Alaska pursuant to station transfers for the Forest Service. 16 U.S.C. § 556b.

2. SecAg determines the terms and conditions, including the price, if any, to be imposed on transfers of fire lookout towers and other improvements to states and political subdivisions or agencies. 16 U.S.C. § 565b.

B. **Management**

1. The Forest Service may pay the expenses of its employees in transporting automobiles between points in Alaska because of station transfers for the Service pursuant to regulations issued by SecAg. 16 U.S.C. § 556b.

2. The Forest Service may pay up to $100 for a single claim to reimburse its employees for loss or damage to clothing or personal effects resulting from fires, floods, or other casualties at or near the place the property is temporarily stored during the employee's service in connection with the casualties. 16 U.S.C. § 566c.

3. SecAg may transfer to states and political subdivisions or agencies fire lookout towers and other structures and improvements used by the Forest Service for fire prevention or suppression purposes and the land used in connection therewith on terms and conditions SecAg deems appropriate. 16 U.S.C. § 565d.

4. SecAg determines whether fire lookout towers, other structures or improvements, and land connected thereto are no longer needed for their intended purposes by the Forest Service. 16 U.S.C. § 565b.

5. SecAg determines whether fire lookout towers and other property to be transferred to a state or a subdivision has value in its fire protection system. 16 U.S.C. § 565d.

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. The Act amended 16 U.S.C. § 502 by adding subparagraph (c) authorizing SecAg to contract with public or private organizations to provide pack animals for the Forest Service in case of fire emergencies in return for the use of the animals by that party at all other times.

B. The Act amended § 554b to authorize payment of expenses of notifying Forest Service employees of death or serious illness of relatives and transportation costs for employees.

C. The Act amended 16 U.S.C. § 555 to increase the amount for purchase of land to $50,000.

D. The Act amended 16 U.S.C. § 556 to exclude scientific or technical articles being published in scientific publications from the prohibition of payments with Forest Service funds.

E. The Act amended 16 U.S.C. § 580f to authorize phone service at Forest Service expense in residences of employees.

Transfer Act of 1960

74 Stat. 205; 7 U.S.C. § 2201 (note). June 11, 1960.

Summary

The Act transferred specific functions previously assigned to the Secretary of Interior to the SecAg. The functions transferred related to disposition of land, including exchanges, sales of small tracts, valuation, and appraisal. Functions not transferred principally referred to mining rights and claims.

I. Requirements and/or Standards

A. **Planning**

1. The Act does not authorize SecAg to determine the validity or invalidity of any mining claims. § 2(b).

2. The Act does not authorize SecAg to dispose of any minerals that are subject to the mining laws if the mining laws apply to the land where the minerals are located. § 2(c).

3. Patents to land sold or exchanged pursuant to the Act shall issue from the Secretary of Interior after approval and recommendation of the sale or exchange by SecAg. § 2(b) and (e).

B. **Management**

1. SecAg must obtain either (1) the advice of the Secretary of Interior that the land is non-mineral, or (2) the approval of the Secretary of Interior of the valuation and disposition of the minerals in the land before approving an exchange of land to be patented without reserving the mineral interest. § 2(a).

2. For national forest land in Montana SecAg must obtain the advice of Secretary of Interior that the lands are non-mineral before approving an exchange of them. § 2(a).

II. Authorizations (non-mandatory activities) - none

III. Mandatory Coordination

A. **Other Statutes**

1. Disposition of minerals under applicable mining laws is required in § 2(c).

B. **Groups**

1. Federal Agencies

a. Throughout the Act requires coordination of responsibilities between the Secretary of Interior and SecAg.

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. The following acts are amended to transfer the functions assigned therein to the Secretary of Interior to SecAg:

1. 42 Stat. 465, as amended, 16 U.S.C. §§ 485 and 486;
2. 42 Stat. 362, 16 U.S.C. § 486a to 486w;
3. 43 Stat. 643, except § 2;
4. 43 Stat. 739, except § 2;
5. 44 Stat. 303, except § 2;
6. 44 Stat. 655, 16 U.S.C. § 38;
7. 44 Stat. 746;
8. 56 Stat. 1042;
9. 46 Stat. 257, 43 U.S.C. 872;
10. § 2b of the Joint Resolution of August 8, 1947, 61 Stat. 921;
11. § 10 of 36 Stat. 962; 16 U.S.C. § 519;
12. § 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1099, § 3, 63 Stat. 683, 30 U.S.C. § 192c;
13. 64 Stat. 311, 16 U.S.C. 508b; and
14. 66 Stat. 285.

B. SecAg's authority to dispose of lands under his jurisdiction is referred to under 61 Stat. 681.

Multiple-Use Sustained-Yield Act of 1960

74 Stat. 215; 16 U.S.C. §§ 528 through 531. June 12, 1960.

Summary

This Act declares supplemental purposes for which national forests are established and administered. These purposes include outdoor recreation, range, timber, watershed, and wildlife and fish purposes. They are supplemental to the purposes set forth in 16 U.S.C. § 475. The Act also declares the multiple-use sustained-yield concept as a planning principle governing the administration of national forests.

I. Requirements and/or Standards

A. **Planning**

1. National forests are established and must be administered for purposes of outdoor recreation, range, timber, watershed, and wildlife and fish. 16 U.S.C. § 528.

2. SecAg must develop and administer the renewable surface resources of national forests for the multiple-use and sustained-yield of the several products and services obtained therefrom. 16 U.S.C. § 529.

B. **Management**

1. SecAg must give due consideration to the relative values of the various resources in particular areas in administering the national forests. 16 U.S.C. § 529.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may create and maintain wilderness areas consistent with the purposes of this Act. 16 U.S.C. § 529.

B. **Management**

1. SecAg may cooperate with interested states and local governmental agencies and others in the development and management of national forests. 16 U.S.C. § 530.

2. The Forest Service determines the relative value to be assigned each of the various resources and the appropriate consideration to be given them in the decisionmaking process. Sierra Club v. Hardin, 325 F. Supp. 99 (D. Alaska 1971).

III. Mandatory Coordination

A. **Other Statutes**

1. The purposes of this Act are supplemental to, not in derogation of, the purposes for which national forests were established under 16 U.S.C. § 475 (p. 5). 16 U.S.C. § 528.

B. **Groups**

1. Federal Agencies

a. This Act does not affect the use or administration of mineral resources on national forest land and applies only to lands within national forests. 16 U.S.C. § 528.

2. State and Local Agencies

a. This Act does not affect the jurisdiction of states over fish and wildlife on national forests. 16 U.S.C. 528.

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none

2. State and Local Agencies

a. SecAg is authorized to cooperate with state and local agencies and others in administration and management of national forests. 16 U.S.C. § 530.

3. Other – none

V. Cross-references to Other Statutes - none

Note: The Multiple-Use Sustained-Yield Act has been affected by enactment of subsequent legislation and requirements imposed under them. Other acts include the Wilderness Act (p. 137) and NEPA (p. 147). Other acts have incorporated this Act by reference, e.g., NFMA (p. 61).

The Act defines "multiple use" as:

> The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output. 16 U.S.C. § 531(a).

"Sustained-yield of the several products and services" is defined as:

> The achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forest without impairment of the productivity of the land. 16 U.S.C. § 531(b).

Additions to National Forest from Taylor Grazing Act Lands

76 Stat. 140; 43 U.S.C. § 315g–l. July 9, 1962.

Summary

The section authorizes the Secretary of Interior to set aside and reserve land acquired under 43 U.S.C. § 315g for administration and management as national forest lands. The lands to be so designated must be within the exterior boundaries of a national forest and suitable for administration as part of the forest.

I. Requirements and/or Standards

A. **Planning**

1. Lands acquired under 43 U.S.C. § 315g and set apart and reserved by the Secretary of Interior as national forest lands must be located within the exterior boundaries of the national forest and must be suitable for administration as part of that forest. 43 U.S.C. § 315g–l.

B. **Management**

1. Lands acquired under 43 U.S.C. § 315g and reserved as national forest lands are subject to the laws, rules, and regulations applicable to other lands reserved in the national forest. 43 U.S.C. § 315g-1.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The Secretary of Interior determines whether lands acquired under 43 U.S.C. § 315g will be set apart and reserved as national forest lands. 43 U.S.C. § 315g-1.

B. **Management** – none

III. Mandatory Coordination – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes – none

McIntire-Stennis Act

76 Stat. 806; 16 U.S.C. § § 582a–582a–7. October 11, 1962.

Summary

The Act provides the basic authority for forestry research grants with states. Grants are made to land-grant colleges or agricultural experiment stations and other state-supported colleges and universities that have graduate science programs and a school of forestry. Federal funds expended must be matched by state expenditures at the schools. The congressional findings in § 582a acknowledge the importance of forestry research in developing and using forest and range lands resources. The findings also emphasize the importance of technological advances and breakthroughs to improve forestry practices. These objectives can best be realized through closer coordination of the forestry research efforts of the states, colleges, and universities and of the federal government.

I. Requirements and/or Standards

A. **Planning**

1. Federal assistance for state forestry research programs must be done pursuant to plans agreed to by SecAg and (a) land-grant colleges or agricultural experiment stations established under the 1862 Morrill Act and the Hatch Act of 1887 or (b) other state-supported colleges and universities offering graduate science programs basic to forestry and having a school of forestry. 16 U.S.C. § 582a–l.

2. A representative designated by a state's Governor in a cooperative research agreement under § 582a–l shall certify institutions eligible and qualified for assistance and shall determine the proportionate amount of assistance each shall receive. 16 U.S.C. § 582a–l.

3. Funds appropriated for cooperative forestry research assistance to land-grant and state-supported colleges shall not exceed one-half the amount of the USDA federal forestry research appropriation for the prior fiscal year. 16 U.S.C. § 582a–2.

4. Funds appropriated for cooperative forestry research assistance to land-grant and state-supported colleges are in addition to grants or allotments under any other statutory authorities. 16 U.S.C. § 582a.

B. **Management**

1. Federal expenditures under a cooperative forestry research assistance program to a state shall not exceed the amount available to and budgeted for expenditure by the college or university during the same fiscal year for forestry research from non-federal sources. 16 U.S.C. § 582a–3.

2. If any or all qualified and certified colleges or universities fail to make available and budget for expenditures for forestry research an amount matching the federal contribution it otherwise would be eligible for, the difference between the federal share and the college or university's funds made available and budgeted for expenditure must be reapportioned by SecAg to other eligible colleges or universities in the same state qualified to receive the funds, or if none, SecAg shall reapportion the differences to qualifying colleges and universities of other states participating in the forestry research program. 16 U.S.C. § 582a–3.

3. SecAg shall determine both the apportionment among participating states and the administrative expenses of cooperative forestry research programs. 16 U.S.C. § 582a–4.

4. Before determining apportionment and administrative expenses of cooperative forestry research program, SecAg must consult with a national advisory board. 16 U.S.C. § 582a–4.

5. Members of the national advisory board must include at least seven officials of the forestry schools of the state-certified eligible colleges and universities and chosen by a majority of them. 16 U.S.C. § 582a–4.

6. SecAg must consider pertinent factors including, but not limited to, areas of non-federal commercial forest land and volume of timber cut annually from growing stock in making the required apportionment of a system. 16 U.S.C. § 582a–4.

7. SecAg must promulgate necessary rules and regulations to carry out the research programs of the Act. 16 U.S.C. § 582a–5.

8. SecAg must establish a cooperative state forestry research unit in the Department of Agriculture to furnish the advice and assistance required under the Act. 16 U.S.C. § 582a–5.

9. SecAg must appoint an advisory committee that provides equal representation to federal state agencies concerned with developing and utilizing a nation's forest resources and to the forest industry. 16 U.S.C. § 582a–5.

10. SecAg and the national advisory board must seek the advisory committee's counsel and advice at least once a year to accomplish effectively the purposes of the Act. 16 U.S.C. § 582a–5.

11. As used in the Act forestry research includes investigations relating to:

(1) Reforestation and management of land for the production of crops of timber and other related products of the forest; (2) management of forests and related watershed lands to improve conditions of water flow and to protect resources against floods and erosion; (3) management of forests and related range land for production of forage for domestic livestock and game and improvement of food and habitat for wildlife; (4) management of forest lands for outdoor recreation; (5) protection of forest lands and resources against fire, insects, diseases, or other destructive agents; (6) utilization of wood and other forest products; (7) development of sound qualities for the management of forest lands and the harvesting and marketing of forest products; and (8) such other studies as may be necessary to obtain the fullest and most effective use of forest resources.

16 U.S.C. § 582a–6.

12. Puerto Rico, the Virgin Islands, and Guam are included as states within the Act. 16 U.S.C. § 582a–7.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may encourage and assist states in conducting programs of forestry research by providing assistance pursuant to previously agreed upon plans between SecAg and land-grant colleges or agricultural experiment stations and other state-supported colleges and universities offering graduate science programs basic to forestry and having a forestry school. 16 U.S.C. § 582a–l.

B. **Management** – none

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies

a. Federal forestry research assistance is authorized for land-grant colleges or state-supported colleges and universities offering graduate training in sciences basic to forestry and having a forestry school. 16 U.S.C. § 582a.

b. Cooperation is required with a state representative named by the Governor to certify which institutions are eligible for federal assistance and to determine the proportionate share for each institution. 16 U.S.C. § 582a-1.

c. Federal contribution for forestry research is to be based on matching funds from each state. 16 U.S.C. § 582a-3.

d. SecAg must cooperate with a national advisory board that includes at least seven officials of forestry schools elected by a majority of the schools eligible for forestry research grants. 16 U.S.C. § 582a-4.

3. Other

a. SecAg and national advisory board must consult at least once a year with advisory committees comprised of federal and state agencies and industry representatives. 16 U.S.C. § 582a-5.

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. Agricultural experiment stations established under the Morrill Act as amended, 7 U.S.C. § 301 et seq. and the Hatch Act, as amended, 7 U.S.C. § 361a et seq., are referred to in 16 U.S.C. § 582a-1.

Forest Service Omnibus Act of 1962

76 Stat. 1157; 16 U.S.C. § § 554d, 555a, and 555b. October 23, 1962.

Summary

The Act added authority for the Forest Service to provide employees recreational facilities, to exchange Forest Service administered land not otherwise available for exchange, and to pay improvement assessments against government-owned residential or improved properties. The Act also amended other provisions relating to the administration of Forest Service lands.

I. Requirements and/or Standards

A. **Planning**

1. The value of Forest Service lands exchanged under § 555a shall not exceed the value of land received by USDA. 16 U.S.C. § 555a.

2. Forest Service funds shall be available to pay for tree improvements on government-owned residential or improved lots. 16 U.S.C. § 555b.

B. **Management** – none

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The Forest Service may spend up to $35,000 annually from Forest Service funds to provide recreation facilities, equipment, and service for employees and, if it is in the public interest, for their immediate families in isolated situations. 16 U.S.C. § 554d.

2. Any lands under the jurisdiction of the Forest Service and being administered under laws not providing for exchange may be exchanged by SecAg for lands that are suitable for use for Forest Service activities. 16 U.S.C. § 555a.

3. Expenses or assessments for construction of sidewalks, curbs, or street paving on the boundary of government-owned residential or improved lots may be paid from Forest Service funds. 16 U.S.C. § 555b.

B. **Management**

1. The Forest Service determines whether it is in the public interest to provide recreational facilities, equipment, and services to the immediate family of employees in isolated situations. 16 U.S.C. § 554d.

2. SecAg determines the values of lands exchanged under § 555a. 16 U.S.C. § 555a.

III. Mandatory Coordination – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes

A. The Act increased the original authorization of funds available to reimburse damages to private property from Forest Service activities to $2500. 16 U.S.C. § 574.

B. The Act eliminated the $25,000,000 limitation on the amount of capitalization in the Forest Service working capital fund. 16 U.S.C. § 579b.

C. The Act repealed SecAg's authority to acquire any interest in submarginal land and land not primarily suited for cultivation. 7 U.S.C. § 1011.

D. The Act deleted the time limit on the period during which the title defects on acquired lands could be discovered and rectified. 7 U.S.C. § 2253.

Note: The equal value of exchange lands required under this Act has been amended by FLPMA (p. 65) which has provisions for equalization payments by either party up to 25% of the value of the federal land being transferred in the exchange. 43 U.S.C. § 1716(b).

Appalachian Regional Development Act

79 Stat. 5; 40 App. U.S.C. § § 1–405, as amended. March 9, 1965.

Summary

In response to the severe economic and related social problems unique to the Appalachian region and the anticipated effects on the region of national energy requirements, this Act creates a framework for coordinating the efforts of federal, state, and local agencies to meet the region's needs through the Appalachian Regional Commission. The Forest Service is affected by provisions directing SecAg's involvement in erosion control and conservation projects and timber development organizations in the Appalachia region. [This Act, except for 40 App. U.S.C. § 201 relating to Appalachia development highways, is to terminate on October 1, 1979. 40 App. U.S.C. § 405.]

I. Requirements and/or Standards

A. **Planning**

1. Any land use and conservation agreement entered into by SecAg under this Act must contain a plan furnished by the agreeing landowner, operator, or occupier which is agreeable to SecAg and which sets out the appropriate and safe land uses and conservation treatment. 40 App. U.S.C. § § 203(b), (c).

B. **Management**

1. Before any project under this Act can be implemented by SecAg, SecAg must determine that the project is not incompatible with federal laws administered by SecAg that are not inconsistent with this Act. 40 App. U.S.C. § 223.

2. If SecAg undertakes to provide financial assistance to programs or projects in the Appalachian Region, to the maximum extent practicable, SecAg shall take into account the policies, goals, and objectives of the Commission and its member states, recognize the Appalachian state development programs approved by the Commission, and accept the boundaries and organization of any certified local development district. 40 App. U.S.C. § 225(c).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may enter into agreements of not more than 10 years with landowners, operators, and occupiers to provide for land stabilization, erosion and sediment control, and reclamation through changes in land use and the conservation and development of soil, water, woodland, wildlife, and recreation resources. 40 App. U.S.C. § 203(a).

a. SecAg may require in the agreement for preservation up to double the term of the agreement of the cropland, crop acreage and allotment history applicable to land covered by the agreement, or for the surrender of any history or allotment. 40 App. U.S.C. § 203(f).

b. SecAg may issue rules and regulations to implement the statutory provisions relating to land use and conservation agreements. 40 App. U.S.C. § 203(g).

2. SecAg may provide technical assistance, make grants, enter into contracts or otherwise provide funds, first to colleges and other higher education institutions (with priority to land grant schools) and thereafter to forest products research institutions in the region, and other appropriate public and private organizations which have demonstrated capability to perform research for the development of (1) Appalachian hardwood technology, (2) new or improved uses of Appalachian hardwood resources, (3) new or improved production methods for hardwood products, or (4) new or improved markets for such products. 40 App. U.S.C. § 204 (b).

B. **Management**

1. SecAg may furnish financial and other assistance to the landowner of not over 80% of the costs of carrying out the land use and conservation agreement under this Act. If it is in the public interest, SecAg may terminate any agreement by mutual consent and, if necessary, may modify any agreement. 40 App. U.S.C. § 203(d), (e).

2. SecAg may provide technical assistance in the organization and operation of private timber development organizations whose objective is to improve timber productivity and quality and, to increase returns to landowners, may establish private nonprofit corporations, which on a self-supporting basis may provide (a) continuity of management, good cutting practices, and marketing services; (b) physical consolidation of small holdings or administrative consolidation for efficient management under long-term agreement; (c) management of forest lands, donated to the timber development organizations for demonstrating good forest management, on a profitable and taxpaying basis; and (d) establishment of a permanent fund for perpetuation of the work of the corporations, composed of donations for educational purposes. 40 App. U.S.C. § 204(a) (1).

3. SecAg may provide up to one-half of the initial capital requirements of any timber development organization (except for manufacturing processing and marketing facilities or physical consolidation of small holdings) through loans issued under FHA. 40 App. U.S.C. § 204(a) (2).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. SecAg shall use the services of the Soil Conservation Service in carrying out provisions for land use and conservation agreements. 40 App. U.S.C. § 203(h).

2. State and Local Agencies

a. SecAg shall use the services of the state and local committees provided for in § 8(b) of the Soil Conservation and Domestic Allotment Act in carrying out provisions for land use and conservation agreements. 40 App. U.S.C. § 203(h).

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. SecAg may on request detail personnel to temporary duty with the Appalachian Regional Commission. 40 App. U.S.C. § 106(3).

b. SecAg may to the extent not otherwise prohibited by law furnish the Commission any information available to the department. 40 App. U.S.C. § 107(2).

c. To the extent not otherwise prohibited by law, SecAg may enter into contracts, leases, cooperative agreements, to other transactions with the Commission that are necessary to the Commission's function. 40 App. U.S.C. § 106(7).

2. State and Local Agencies – none

3. Other

a. SecAg may use services, facilities, and authorities of the Commodity Credit Corporation in carrying out provisions for land use and conservation agreements. 40 App. U.S.C. § 203(h).

V. Cross-references to Other Statutes – none

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

84 Stat. 1894; 42 U.S.C. § § 4601–4603, 4621–4638, 4651–4655, as amended. January 2, 1971.

Summary

The Act attempts to establish a uniform policy for the equitable treatment of persons displaced as a result of federal programs. The Act defines the types of relocation assistance that must be offered and provides for payment of certain expenses. The Act also declares a uniform policy on real property acquisition policies.

I. Requirements and/or Standards

A. **Planning**

1. Each federal agency must, to the extent practicable, be guided by the following principles in real property acquisitions: (a) property should be acquired expeditiously by negotiation (7 C.F.R. § 21.100), (b) property should be appraised prior to negotiation (7 C.F.R. § 21.1003), (c) prior to negotiation the federal agency should make an offer that does not fall below fair market value or the appraised value (7 C.F.R. § 21.004, 1005), (d) no owner shall be required to surrender possessions prior to the acengy's payment of the purchase price, (e) agencies shall provide a 90-day notice to surrender the premises, (f) if possession continues after purchase the rent charged cannot exceed fair rental value, (g) no coercive action shall be taken, (h) if the property is to be condemned, the federal agency should institute the legal proceedings, and (i) the agency should not acquire part of a parcel if the remainder would be uneconomic.

B. **Management**

1. For persons displaced by real property acquisitions of any federal agency, the agency head must pay for (1) actual and reasonable moving expenses (or, alternatively, a moving expense allowance) 42 U.S.C. § 4622(a), 7 C.F.R. § § 21.303, 21.304, 21.305, (2) direct losses of tangible personal property as a result of discontinuing the business or farm operation which does not exceed reasonable expenses required to relocate this property (or, alternatively, a fixed payment based on annual net earnings), 42 U.S.C. § 4622(a) (c), 7 C.F.R. § § 21.303, 21.305, 21.308, 21.304, and (3) actual and reasonable expenses in searching for a replacement business or farm. 42 U.S.C. § 4622(a), 7 C.F.R. § 21.307.

2. The agency shall make replacement housing payments to homeowners who owned and occupied the acquired dwelling at least 180 days and who find sanitary replacement housing within one year of dislocation, and those payments must include the amount necessary to acquire a comparable replacement dwelling, increased interest costs of the replacement dwelling, and expenses incurred in conveying the property and acquiring new property (title searches, credit report, recordation fees) but cannot exceed $15,000. 42 U.S.C. § 4623, 7 C.F.R. § § 21.503–21.504.

3. The agency shall make additional replacement housing payments to tenants who are displaced, and these payments must include rental payments paid or those payments of a comparable dwelling up to $4000 including downpayments necessary to acquire replacement housing, as well as expenses incurred in acquiring replacement housing (title searches, credit reports, recordation fees). 42 U.S.C. § 4624, 7 C.F.R. § § 21.601–21.606.

4. The agency shall make replacement housing differential payments for occupants of mobile homes if they are displaced or moved, and if displaced, under the same regulations applicable depending upon whether the person is a homeowner or a tenant, or if moved, the occupant is eligible for replacement homesite benefits. 42 U.S.C. § 4624, 7 C.F.R. § § 21.701, 21.702.

5. All federal agencies must provide a relocation assistance advisory program for displaced persons. 42 U.S.C. § 4625, 7 C.F.R. § § 21.801–21.803.

6. Each relocation assistance advisory program shall provide: (a) for a determination of the need for displaced persons, (b) information available on housing, (c) assurances that adequate housing is available, (d) assistance for businesses that are displaced, (e) information regarding other federal programs, and (f) other advisory services. 42 U.S.C. § 4625(c).

7. No federal agency can displace a person from his dwelling unless the agency has determined that replacement housing is available. 42 U.S.C. § 4626.

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. A federal agency can provide temporary housing for displaced persons, if the project has been delayed due to lack of available replacement housing. 42 U.S.C. § 4626.

2. Federal agencies can institute eminent domain proceedings if negotiations with the property owner fail. 42 U.S.C. § 4651, 7 C.F.R. § 21.1006.

3. Federal agencies can promulgate rules and regulations to carry out the purposes of the Act. 42 U.S.C. § 4633.

4. Replacement housing payments may be determined by examining reasonable acquisition costs or rental rates of comparable dwellings or by other methods. 7 C.F.R. § 21.402.

5. Federal agencies should reimburse the owner for recording fees, transfer taxes and similar expenses incurred in conveying title and for penalty costs of a mortgage and the pro rata portion of property taxes. 42 U.S.C. § 4653.

6. If the federal court finds that the agency cannot exercise eminent domain, or if the agency abandons proceedings, then the owner of the property should receive costs, including attorney, appraisal, and engineering fees, incurred as a result of the proceedings. 42 U.S.C. § 4654.

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Heads of federal agencies must coordinate relocation activities with other federal agencies or other governmental bodies.

2. State and Local Agencies – none

3. Other – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes – none

Cooperative Law Enforcement Act of 1971

85 Stat. 303; 16 U.S.C. § 551a. August 10, 1971.

Summary

The Act authorizes cooperation by SecAg with states and their political subdivisions located in national forests or grasslands in enforcement and supervision of their laws. The Act authorizes reimbursement of costs incurred by states in controlling activities on national forests

I. Requirements and/or Standards

A. **Planning**

1. States and their political subdivisions retain their civil and criminal jurisdiction within and on lands which are part of the national forest system. 16 U.S.C. § 551a.

B. **Management** - none

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may cooperate with states or their subdivisions in enforcing or supervising state and local laws and ordinances on national forest land. 16 U.S.C. § 551a.

B. **Management**

1. SecAg may reimburse states or their subdivisions for expenses incurred in enforcing local and state laws or ordinances on national forest lands. 16 U.S.C. § 551a.

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Volunteers in the National Forest Act of 1972 and Youth Conservation Corps Act of 1974

86 Stat. 147; 16 U.S.C. §§ 558a–558d and 88 Stat. 1066; 16 U.S.C. §§ 1701–1706, as amended. May 18, 1972, and September 3, 1974.

Summary

These acts authorize the use of volunteers and teenagers for different tasks in national forests. The terms and requirements for qualifying for the Youth Conservation Corps as well as the requirements of the program are set forth. The Act also authorizes grants to states for programs designed to hire teenagers if the state program meets minimum requirements under the Act.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must consider referrals of respective volunteers from ACTION in carrying out the Volunteers in the National Forest Program. 16 U.S.C. § 558a.

2. Persons in the Volunteers in the National Forest Program shall be considered federal employees for purposes of the federal Forest Claims Act and for purposes of compensation to federal employees for work injuries. 16 U.S.C. § 558c.

3. The Youth Conservation Corps is established permanently within the Department of Interior and the Department of Agriculture. 16 U.S.C. §§ 1701 and 1702.

4. Corps members must be permanent residents of the United States, must be between the ages of 15 and 19, and must receive pay commensurate with accomplished work for a period not to exceed 90 days in any year. 16 U.S.C. § 1702.

5. The Secretary of Interior and SecAg must determine the appropriate areas for using Corps employees, determine appropriate areas and programs for other federal agencies, determine the hours, rate of pay, and conditions of employment for Corps members, provide for transportation, lodging, subsistence, and services for Corps members in performance of their duties, issue regulations to ensure the safety, health and welfare of Corps members, and provide to the extent possible permanent or semi-permanent facilities for Corps camps. 16 U.S.C. § 1703(a).

6. The Corps must use existing but unoccupied federal facilities and surplus or unused equipment including military, where appropriate and after receiving approval of the concerned federal agencies. 16 U.S.C. § 1703(b).

7. Corps members shall be employed on conservation projects as near to their place of residence as is feasible. 16 U.S.C. § 1703(b).

8. Secretary of Interior and SecAg shall jointly establish a grants program to assist states in meeting the cost of state projects to employ young men and women to develop, preserve, and maintain non-federal public lands and waters within the states. 16 U.S.C. § 1704.

B. **Management**

1. Corps members must be hired to develop, preserve, or maintain the lands and waters of the United States. 16 U.S.C. § 1702.

2. The Corps must offer equal employment opportunity and employment terms to all its members regardless of social, economic, and racial classifications. 16 U.S.C. § 1702(b).

3. No state grant may be approved until an application has been submitted and approved by the Secretary of Interior and SecAg. 16 U.S.C. § 1704(b).

4. The Secretary of Interior and SecAg must jointly prescribe regulations for the manner of submission in the form of application for state grants containing at least satisfactory assurances that the minimum requirements of Corps membership are satisfied and any other information the Secretaries require. 16 U.S.C. § 1704(b).

5. The Secretary of Interior and SecAg must jointly determine the amount of a state grant, not to exceed 80% of the actual cost of the state project. 16 U.S.C. § 1704(c).

6. The Secretary of Interior and SecAg must determine the cost of the state project being funded under a state grant. 16 U.S.C. § 1704(c).

7. The Secretary of Interior and SecAg must annually prepare a joint report detailing their activities under this Act and making recommendations. 16 U.S.C. § 1705.

8. The joint report of the Secretary of Interior and SecAg must be filed annually no later than April 1st after the program year. 16 U.S.C. § 1705.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may recruit, train, and accept services of individuals without pay and without regard to civil service and classifications laws to perform interpretive functions, visitor services, conservation measures, and development. 16 U.S.C. § 558a.

2. SecAg may provide incidental expenses including transportation, uniforms, lodging, and subsistence to program volunteers. 16 U.S.C. § 558b.

3. Corps camps may be established at local schools, school districts, state junior colleges and universities, or other educational institutions for use as environmental/ecological educational camps to the extent possible and at the cost of the using party. 16 U.S.C. § 1703(a).

B. **Management**

1. The Secretary of Interior and SecAg may contract with public or private non-profit agencies or organizations which are at least five years old for the operation of any Youth Conservation Corps project. 16 U.S.C. § 1703(c).

2. The Secretary of Interior and SecAg may approve application for grants from states if they meet the requirements of the Act and are for projects to further the development, preservation, or maintenance of non-federal public lands or waters within the state. 16 U.S.C. § 1704(b).

3. The Secretary of Interior and SecAg may prescribe by regulation what information must be contained in applications from states for grant assistance under the Act. 16 U.S.C. § 1704(b).

4. The Secretary of Interior and SecAg may pay grants under the Act in advance or by reimbursement at times and on conditions that the Secretaries determine necessary. 16 U.S.C. § 1704(c).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Prospective volunteers referred from ACTION must be considered for the Volunteers' program. 16 U.S.C. § 558a.

b. The Youth Conservation Corps must be operated jointly with the Secretary of Interior. 16 U.S.C. § § 1701 through 1706.

c. Work with other federal agencies on Youth Conservation Corps projects must be coordinated by the respective Secretary. 16 U.S.C. § 1703.

d. The use of existing but unoccupied federal facilities and equipment must be done with the approval of the agency involved. 16 U.S.C. § 1703(b).

e. Annual reports are required from the Secretary of Interior and SecAg to Congress. 16 U.S.C. § 1705.

2. State and Local Agencies

a. Youth Conservation Corps facilities can be used by local educational units as environmental/ecological education camps during periods of non-use by the Corps' program at the expense of the user. 16 U.S.C. § 1703(a).

b. The Youth Conservation Corps grants program for states requires coordination wtth the states. 16 U.S.C. § 1704.

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies

a. The Secretary of Interior and SecAg may contract with public or private agencies or non-profit organizations. 16 U.S.C. § 1703(b).

3. Other – none

V. Cross-references to Other Statutes

A. Persons in the Volunteers in the National Forest program are exempt from civil service and classification laws, rules, or regulations. 16 U.S.C. § 558a.

B. Federal employment laws relating to hours of work, rates of compensation, leave, unemployment compensation, and employee benefits do not apply to Volunteers in the National Forest program. 16 U.S.C. § 558c.

C. Volunteers in the National Forest program participants are employees within the meaning of Federal Forest Claim Act, Title 28 U.S.C. § 1346(b). 16 U.S.C. § 558c.

D. Federal compensation programs for work injuries apply to Volunteers in the National Forest program participants. 16 U.S.C. § 558c.

E. Youth Conservation Corps members are deemed federal employees for purposes of 28 U.S.C. Chapter 171 and 5 U.S.C. Chapter 81. 16 U.S.C. § 1703(a).

Rural Development Act of 1972—Rural Community Fire Protection

86 Stat. 670 as amended by 87 Stat. 240; 7 U.S.C. § § 2651-2654, as amended. August 30, 1972.

Summary

This Act authorizes SecAg to assist states and others in providing fire protection in rural areas. The assistance is implemented through cooperative agreements authorizing financial assistance on a matching fund basis.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must provide financial, technical, and other assistance to state foresters or other appropriate officials in cooperative efforts to organize, train, and equip local forces to prevent fires threatening human life and property in rural areas. 7 U.S.C. § 2651.

2. SecAg must enter into cooperative agreements with appropriate state officials on terms and conditions SecAg deems necessary to meet the purposes of the Act. 7 U.S.C. § 2652.

B. **Management**

1. Financial assistance under a cooperative agreement with the state shall not exceed 50% of the lesser of the total budgeted or the actual state expenditures. 7 U.S.C. § 2652(a).

2. SecAg must submit a written report to the President within two years concerning the efficiency of the program. 7 U.S.C. § 2653.

3. SecAg must include recommendations concerning rural fire protection programs as deemed appropriate in the annual report. 7 U.S.C. § 2653.

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. Sec Ag may make payment under cooperative agreements with states on certification from the appropriate state official that the expenditures have been made. 7 U.S.C. § 2652(a).

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. Indian tribes may be utilized in providing the assistance required under the Act. 7 U.S.C. § § 2651 and 2652.

2. State and Local Agencies

a. Cooperative agreements must be coordinated with state foresters and other appropriate state officials. 7 U.S.C. § § 2651 and 2652.

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. The definition of rural area in 7 U.S.C. § 1926(a) (7) is used for purposes of this Act, and it excludes towns and cities with a population in excess of 10,000. 7 U.S.C. § 2651.

Note: This Act was repealed by the Cooperative Forestry Assistance Act of 1978 (p. 75), effective October 1, 1978. Contracts and cooperative agreements entered into under this Act remain in effect until revoked or amended by their own terms or other statutes. 16 U.S.C. § 2111. The new Rural Fire Prevention and Control Program is codified at 16 U.S.C. § 2106.

Agriculture and Consumer Protection Act of 1973, Chapter 34—Rural Environmental Conservation Program

87 Stat. 241–245 as amended by 87 Stat. 450; 16 U.S.C. §§ 1501–1510, as amended. August 10, 1973, and October 18, 1973.

Summary

The 1973 Act is a major amendment of the Agriculture Act of 1970. The discussion below is limited to that part of the 1973 Act which amended the 1970 Act by creating the Rural Environmental Conservation Program. The Program was established to fulfill the purposes of 16 U.S.C. § 590g(a), 16 U.S.C. § 590p(b), and the Water Bank Act. Those purposes include preservation and improvement of soil fertility, promotion of the economic use and conservation of land, diminution of exploitation and wasteful and unscientific uses of national soil resources; the protection of rivers and harbors against soil erosion to maintain the navigability of waters and water courses and flood control; and prevention and abatement of agricultural-related pollution. 16 U.S.C. § 590p(a). The Program authorizes contracts between SecAg and private landowners or operators to encourage development, management, and protection of "non-industrial private forest lands." It creates the Forestry Incentives Program which applies directly to the Forest Service. Its purpose is to stimulate tree planting on open lands that are suitable for forests but have been without trees either permanently or for many years.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must fulfill the conservation and protection purposes of the Act through three, five, ten, or twenty-five year contracts with eligible owners and operators of land. 16 U.S.C. § 1501.

2. SecAg must retain whatever control he deems necessary over the land covered by contracts under the Act. 16 U.S.C. § 1501.

3. The contracts under the Act must be designed to assist farm, ranch, wetland, and non-industrial private forest owners and operators to make progressive, regular changes to fulfill the purposes of 16 U.S.C. § 590p(a), and of the Water Bank Act and to enlarge fish and wildlife and recreation sources; to improve the level of management of non-industrial private forest lands; and to provide long-term wildlife and upland game cover. 16 U.S.C. § 1501.

4. SecAg in carrying out this Act must consider maintenance of a continuing and stable supply of agricultural commodities and forest products adequate to meet consumer demand at prices fair to both producers and consumers. 16 U.S.C. § 1501.

5. Contracts under the Act shall be based on approved conservation plans of eligible landowners and operators developed in cooperation with the Soil and Water Conservation District or the state forester or other appropriate state official in which their lands are located. 16 U.S.C. § 1503(a).

6. The total acreage placed under agreement and retired from production must not exceed the percentage of the total eligible acreage in the county or local community that SecAg determines would not adversely affect the economy of the county or local community. 16 U.S.C. § 1506.

7. SecAg must consider the productivity of the acreage required as compared with the average productivity of eligible acreage in determining whether the economy of the county or local community would be adversely affected. 16 U.S.C. § 1506.

8. SecAg must appoint an advisory board in each state to advise SecAg concerning conservation measures that should be approved to carry out the Act. 16 U.S.C. § 1507(a).

9. SecAg must appoint as members of the state advisory board persons with special qualifications in fields of agriculture, soil, water, wildlife, fish, and forest management including the state soil conservationist, state forester, the state administrator of water quality programs, and the state wildlife administrator. 16 U.S.C. § 1507(a).

10. The state advisory board must meet at least once a year and must limit its advice to appropriate conservation measures to be approved to carry out the water bank program, authorization of purchasing perpetual easements, providing long-term upland game cover, and establishing and managing multi-year set-aside contracts. 16 U.S.C. § 1507(a).

11. SecAg must seek advice of appropriate officials from various states in developing programs and guidelines for providing technical assistance for wildlife habitat improvement practices, evaluating effects on surrounding areas, considering aesthetic values, checking compliance by cooperators, and carrying out wildland management programs authorized under the Act. 26 U.S.C. § 1507(b).

12. The national advisory board shall limit its advice to conservation measures to be approved for the water bank program, the authorization to purchase perpetual easements, the provision for long-term upland game cover, and establishment and management of approved practices on multi-year set-aside contracts under this Act. 16 U.S.C. § 1507(b).

13. SecAg must develop and implement a forestry incentive program that encourages the development, management, and protection of non-industrial private forest lands. 16 U.S.C. § 1509(a).

B. **Management**

1. SecAg must determine what lands shall be eligible for conservation and protective contracts. 16 U.S.C. § 1501.

2. SecAg must determine what controls shall be necessary to carry out the contracts on the lands covered thereby. 16 U.S.C. § 1501.

3. SecAg must require a plan of farming operations or land use from each contract applicant. 16 U.S.C. § 1502.

4. SecAg must determine what practices and principles will be practicable in carrying out the contracts. 16 U.S.C. § 1502.

5. Each contract applicant's plan must incorporate practices and principles SecAg determines practicable and must outline a schedule for proposed changes, if any, in cropping systems or land use. Further, each plan must outline the conservation measures to be carried out on the land to protect it from erosion, deterioration, and pollution by natural and manmade causes or to ensure an adequate supply of timber and related forest products. 16 U.S.C. § 1502.

6. The landowner or operator under the contract must agree (1) to carry out his plan according to the schedule contained in it; (2) to forfeit all rights and refund all payments for violations determined to warrant termination of the contract or make necessary adjustments if the violation is not severe enough to warrant termination; (3) to bind transferees or waive rights under the contract; (4) not to adopt any practice that would defeat the purposes of contracts; (5) to

comply with applicable laws and regulations including environmental protection and noxious weed abatement ones; and (6) agree to be bound by regulations SecAg determines desirable. 16 U.S.C. § 1503(a).

7. Contracts for the Water Bank Act must include provisions prohibiting filling or using the land to destroy its wetland character or for agricultural production.

8. Contracts may be entered into covering wetlands authorizing agricultural use thus reserving the governmental easement.

9. SecAg must agree to make appropriate payments for use of land to maintain the conservation purposes and to share the costs of the conservation method applied. 16 U.S.C. § 1503(b).

10. Cost-sharing shall be based on that part of the contract SecAg determines necessary and appropriate to effectuate the physical installation of the conservation practices and measures under the contract.

11. For contracts not requiring bidding procedures and advertising, the cost-sharing shall be based on 50% to 75% of the actual cost. 16 U.S.C. § 1503(b).

12. Set-aside contracts on a multi-year basis are available for producers in programs for wheat, seed grains and cotton for the years 1974 through 1978 for participating producers. 16 U.S.C. § 1505(a).

13. Producers under multi-year set-aside contracts must devote the acreage to vegetative cover, must not allow grazing, and must comply with applicable laws and regulations 16 U.S.C. § 1505(a).

14. SecAg must issue regulations necessary to carry out the Act. 16 U.S.C. § 1506.

15. SecAg must determine the percentage of total acreage eligible that may be retired without causing an adverse affect on the economy of the county or local community. 16 U.S.C. § 1506.

16. SecAg must give appropriate consideration to the productivity of the retired acreage when compared with the average productivity of the eligible acreage. 16 U.S.C. § 1509(c).

17. SecAg must consult with the state forester or other appropriate official in carrying out the forestry incentives program and extend federal assistance pursuant to 16 U.S.C. § 1503(b).

18. SecAg must determine if significant public benefit will follow from approval of the forestry incentives contract on tracts exceeding 500 acres. 16 U.S.C. § 1509(c).

19. The forestry incentive program must encourage landowners to use practices to forest suitable open lands and reforest cut-over or overstocked areas and protect forest resources to provide for production of timber and related benefits. 16 U.S.C. § 1509(a).

20. SecAg must distribute available funds for cost-sharing among the states in light of the public benefit from the cost-sharing and giving appropriate considerations to the number and acreage of commercial forest lands; the counties to be served by the cost-sharing and the number of eligible ownerships in the state; the potential productivity of the lands; and the need for reforestation, timber stand improvement, or other forestry investments fo the land. 16 U.S.C. § 1509(c).

21. Forestry incentives contracts shall not be approved for tracts larger than 500 acres unless SecAg finds that significant public benefit will result from the approval. 16 U.S.C. § 1509(c).

22. SecAg must periodically report to the appropriate congressional committee on the progress and conduct of the forestry incentives program. 16 U.S.C. § 1509(e).

23. The programs, contracts, and authority under this chapter are in addition to any other authorized and do not expire at the termination of any other program. 16 U.S.C. § 1510.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may purchase perpetual easements to carry out the purposes for conservation and protection purposes of the Act. 16 U.S.C. § 1501.

2. SecAg determines what conservation practices and principles should be applied under the contracts to carry out the purposes of the Act. 16 U.S.C. § 1502.

3. Conservation plans from contract applicants may include plans for migratory water fowl nesting and breeding, developed in cooperation with the Soil and Water Conservation District. 16 U.S.C. §1502.

4. SecAg may provide rules and regulations concerning plans which provide for conservation and protection measures for migratory water fowl nesting and breeding areas. 16 U.S.C. § 1502.

5. Applicants' plans may include a schedule of proposed changes to conserve surface waters and preserve improved habitat for migratory water fowl and other wildlife resources and improved subsurface moisture. 16 U.S.C. § 1502. Plan changes in the schedule may include reduction of new land coming into production, enhancement of the natural beauty of the landscape, and promotion of comprehensive and total water management studies. 16 U.S.C. § 1503.

6. SecAg determines when cost-sharing under a conservation contract is appropriate and in the public interest. 16 U.S.C. § 1503(b).

7. SecAg determines what part of the cost of the physical installation of the required measures under the contract are necessary and appropriate. 16 U.S.C. § 1503(b).

8. SecAg may terminate any contract by mutual agreement if it is in the public interest. 16 U.S.C. § 1503(c).

9. SecAg determines if contract termination by mutual consent is in the public interest. Id.

10. SecAg may modify contracts as SecAg determines desirable to carry out the program to fulfill the purposes of the program, or facilitate practical administration of the program, to accomplish equitable treatment among similar conservation land use or commodity programs. 16 U.S.C. § 1503(c).

11. SecAg may make available conservation materials to eligible owners and operators including seeds, seed innoculants, soil conditioning material, trees, plants and, if appropriate to the purposes of the program, fertilizer and liming materials. 16 U.S.C. § 1504.

12. SecAg determines whether it is appropriate to carry out the contract to provide fertilizer or liming materials to eligible owners and operators. 16 U.S.C. § 1504.

13. SecAg may establish multi-year set-aside contracts. 16 U.S.C. § 1505(a).

14. SecAg may require an advertising and bid procedure to determine what lands shall be covered by agreement if the procedures will contribute to the effective and equitable administration of the program. 16 U.S.C. § 1509(d).

15. SecAg determines whether the bid and advertising procedures will contribute to the effective and equitable administration of the program. 16 U.S.C. § 1509(d).

B. **Management** – none

III. Mandatory Coordination

A. **Other Statutes**

1. The purposes of the environmental conservation program must be coordinated with those contained in clauses 1, 2, 3, 4 and 6 of 16 U.S.C. § 590g(a), 16 U.S.C. § 590p(b), and the Water Bank Act. 16 U.S.C. § 1501.

2. State advisory boards must advise state committees created under 16 U.S.C. § 590h(b). 16 U.S.C. § 1507(a).

B. **Groups**

1. Federal Agencies

a. SecAg must consult with the Secretary of the Interior in naming the national advisory board. 16 U.S.C. § 1507(b).

b. Sec Ag may use facilities and services of Commodity Credit Corporation in carrying out SecAg's responsibility under this program. 16 U.S.C. § 1508.

c. SecAg must utilize the technical services of the Soil Conservation Service, the Forest Service, state forestry organizations, soil and water conservation districts, and other state and federal agencies as appropriate in development and installation of approved conservation plans. 16 U.S.C. § 1508.

2. State and Local Agencies

a. Eligible contract applicants must develop migratory water fowl nesting and breeding areas in conjunction with a conservation plan through a soil and water conservation district in which the land is located. 16 U.S.C. § 1502.

b. Conservation plans must be approved and developed in cooperation with soil and water conservation districts, the state forester, or other appropriate state official where the lands are situated. 16 U.S.C. § 1503(a).

c. SecAg must appoint as members of the state advisory board the state soil conservationist, the state forester, the state administrator of water quality programs, and the state wildlife administrator or his designees. 16 U.S.C. § 1507(a).

d. SecAg must seek the advice and assistance of the appropriate officials of several states through the national advisory board in developing conservation programs and especially in developing guidelines for providing technical assistance for wildlife habitat improvement practices, evaluating effects on surrounding areas, considering aesthetic values, checking compliance by cooperators, and carrying out programs of wildlife management under the Act. 16 U.S.C. § 1507(b).

e. SecAg must coordinate programs with, and utilize the technical services of, interested states and local agencies. 16 U.S.C. § 1508.

f. SecAg must consult with the state forester or other appropriate officials in the conduct of forestry incentives programs. 16 U.S.C. § 1509(c).

g. Cost-sharing shall be determined in consultation with the affected state under the forestry incentives program. 16 U.S.C. § 1509(c).

3. Other

a. SecAg may coordinate the programs to encourage utilization of private agencies, firms, and individuals furnishing services and materials needed in the application of practices included in the forestry incentives improvement program. 16 U.S.C. § 1509(e).

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. Clauses 1, 2, 3, 4 and 6 of U.S.C. § 590g(a), 16 U.S.C. § 590p(b) and the Water Bank Act in 16 U.S.C. § 1501.

B. The Water Bank Act in 16 U.S.C. § 1503(a).

C. State committees created under 16 U.S.C. § 590h(d) in 16 U.S.C. § 1507(a) and § 1508.

Note: The Forestry Incentives Program under § § 1509 and 1510 were repealed by the Cooperative Forestry Assistance Act of 1978 (p. 75), effective October 1, 1978. Contracts and cooperative and other agreements under the program remain in effect until revoked or modified by their terms or other statutes. 16 U.S.C. § 2111. The new Forestry Incentives Program is codified in the Cooperative Forestry Assistance Act of 1978 (p. 75).

National Forest Management Act of 1976 (NFMA) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA)

88 Stat. 476 (RPA); 90 Stat. 2949 (NFMA); 16 U.S.C. §§ 1600–1614, as amended. October 22, 1976.

Summary

NFMA is a comprehensive framework and primary source of direction to the Forest Service for fulfilling its mandate to manage the "National Forest System" (established for the first time by statute in NFMA). The central element of NFMA is the institution of land and resource management planning (mandated earlier by RPA) as the basic means of achieving effective use and protection of renewable resources and a proper balance of the uses of all the nation's forest lands. The Act sets forth policies, requirements, and an outline of regulations for planning.

I. Requirements and/or Standards

A. **Planning**

1. The initial Renewable Resources Assessment must be updated during 1979 and each tenth year thereafter. 16 U.S.C. § 1601(a).

2. The Assessment must include a complete and current inventory of all National Forest lands and national renewable resources, the supply and demand needs of the United States, the international market situation, a description of Forest Service programs, discussion of policy, law, or other factors expected to significantly affect forest and rangelands, and an evaluation of opportunities for improvement. 16 U.S.C. §§ 1601(a) and 1603.

3. Starting with 1979 the Assessment must include reports on fiber potential, potential for waste product utilization, and fiber fabrication facilities, and SecAg must provide "opportunity for public involvement" and must consult with other interested government departments in preparing these reports. 16 U.S.C. § 1601(c).

4. At least once each five years, beginning with the first half of fiscal year 1980, SecAg must prepare and transmit to the President a recommended Renewable Resources Program which covers at least the next four fiscal decades. 16 U.S.C. § 1602.

5. The Program must provide for protection, management, and development of the National Forest System, forest roads and trails, and cooperative programs and research. Id.

6. The program must conform to the Multiple Use-Sustained-Yield Act of 1960 (p. 39) and the National Environmental Policy Act of 1969 (p. 147). Id.

7. The Program must contain:

(1) inventory of investment needs and opportunities;

(2) identification of anticipated results to aid cost-benefit analysis;

(3) discussion of priorities of Program opportunities in relation to cost-benefit;

(4) detailed study of personnel needed to "implement and monitor" programs; and

(5) recommendations which:

(a) evaluated objectives for programs to determine multiple-use and sustained-yield relationships "among and within the renewable resources";

(b) explain opportunities for private owners to improve land and renewable resources therefrom;

(c) recognize need to protect and improve quality of soil, water, and air resources;

(d) state national goals recognizing interdependence of renewable resources;

(e) evaluate impact of export and import of raw logs on domestic timber supplies and prices. Id.

8. SecAg must, as soon as practicable, establish a process to project long-term costs and benefits of the renewable resources program which must include samples of the reforestation costs, timber stand improvement, and timber sales, and a comparison of these costs to the return to the government from timber sales. 16 U.S.C. § 1604(1).

9. SecAg must prepare an annual evaluation report (in concise summary form with detailed data in appendices) beginning with the third fiscal year after August 17, 1974, which shall include:

(1) evaluation of the component elements of the Program;

(2) progress in implementing the Program together with accomplishments as they relate to the objectives of the Assessment;

(3) description of the status of major research programs, significant findings, and how they will be applied to forest management;

(4) summary of data and findings resulting from the estimates of the cost-benefit analysis to support program evaluation as required in section 1604(1), implementing 1606(d) including identification of advertised timber sales made below the estimated expenditures;

(5) assessment of the balance between economic and environmental quality factors;

(6) plans for implementing corrective action;

(7) recommendations for new legislation where warranted;

(8) progress in incorporating the newly required standards and guidelines in land management plans;

(9) beginning with fiscal year 1978, identification of the amount and location of all land in the National Forest System that is in need of reforestation or that has stands not growing at their best potential rate;

(10) through 1984, an estimate of the sums needed in addition to other available funds to replant and otherwise treat (1) an acreage equal to the amount to be cut over that year, and (2) a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog by 1985;

(11) after 1984, an estimate of sums necessary to replant and otherwise treat all lands being cut over and to maintain planned timber production on all other forested national forest lands so as to prevent development of a backlog of needed work any greater than existing at the beginning of the fiscal year. 16 U.S.C. §§ 1601(d), 1606(c)–(f).

10. SecAg shall examine all treated national forest lands after the first and third growing seasons and shall certify the lands in the annual report as to stocking rate, growth rate in relation to potential, and other pertinent measures. 16 U.S.C. § 1601(d)(2).

11. Any lands not certified as satisfactory must be returned to the backlog and scheduled for prompt treatment; the treatment shall be that which secures the most effective mix of multiple use benefits. 16 U.S.C. § 1601(d)(2).

12. In the required annual estimate of funds necessary for reforestation, SecAg must include monies needed to get seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fences to exclude livestock and adverse wildlife from regeneration areas, and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

13. SecAg must submit to Congress an annual report on the types and uses of herbicides and pesticides annually in the National Forest System and their effects. 16 U.S.C.

§ 1601(e).

14. SecAg, to achieve the Program, must develop, maintain, and revise land and resource management plans for "units" of the National Forest System. 16 U.S.C. § 1604(a).

15. In planning, SecAg must use a "systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences." 16 U.S.C. § 1604(b).

16. SecAg must appoint a Committee of Scientists who cannot be either officers or employees of the Forest Service, to assure an effective interdisciplinary approach is proposed and adopted in the regulations for land management planning. 16 U.S.C. § 1604(h)(1).

17. SecAg must assure that the plans for each unit provide for multiple use and sustained yield in accordance with MUSY of 1960 (p. 39) and especially coordinate outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness. 16 U.S.C. § 1604(e)(1).

18. SecAg must assure that the plans determine forest management systems, harvesting levels, and procedures in light of the above use, multiple use and sustained yield, and the "availability of lands and their suitability for resource management." 16 U.S.C. § 1604(e)(2).

19. SecAg must provide for public participation in the planning process, including making the plans or revisions available to the public at convenient locations in the vicinity of the affected unit for three months before final adoption and having publicized public meetings or "comparable processes" at locations that foster public participation in review. 16 U.S.C. § 1604(d).

20. Land management plans or revisions thereof are not effective until 30 days after the completion of the required public participation and publication of notification. 16 U.S.C. § 1604(j).

21. Amendments to land management plans that constitute "significant changes" or revisions thereof must be preceded by the public involvement and procedures required for initial preparation of plans before the amendment is effective. 16 U.S.C. § 1604(f)(4) and (5).

22. The plans must:

(1) form one integrated plan for each unit of the National Forest System;

(2) incorporate in one document or one set of documents all the features required by section 1604;

(3) be available to the public at convenient locations;

(4) be embodied in appropriate written material, including maps and other descriptive documents;

(5) reflect "proposed and possible actions," including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

(6) be based on inventories of the applicable resources of the forest;

(7) be revised at least every 15 years. 16 U.S.C. § 1604.

23. SecAg must begin to incorporate the standards and guidelines for plans for National Forest units as soon as practicable and must "attempt to complete such incorporation" not later than 1985. 16 U.S.C. § 1604(c).

24. SecAg must prescribe any regulations necessary to carry out the Act. 16 U.S.C. § 1613.

25. SecAg must establish by regulation "procedures, including public hearings where appropriate," to give governmental authorities and the public "adequate notice and an opportunity to comment on formulation of standards, criteria and guidelines applicable to Forest Service programs." 16 U.S.C. § 1612.

26. Before October 22, 1978, regulations must be promulgated which must include specification of:

(1) procedures to insure that all plans are prepared in accordance with NEPA (and specifically "direction on when and for what plans" an EIS must be prepared);

(2) guidelines that require the identification of the suitability of land for resource management and provide for obtaining inventory data on renewable resources, oil and water, and methods to identify special conditions or situations involving hazards to the various resources and their relationship to alternative activities; and

(3) guidelines for land management plans that insure consideration of a wide range of values, amenities, and objectives. 16 U.S.C. § 1604(g)(1)–(2).

27. Before October 22, 1978, regulations specifying guidelines for plans developed to achieve the goals of the program must be promulgated which:

(1) insure consideration of economic and environmental aspects of various systems of renewable resource management to provide for outdoor recreation, wilderness, range, timber, watershed, wildlife, and fish;

(2) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area and if appropriate and practicable, for procedures to preserve the diversity of tree species similar to that of the region;

(3) insure research and evaluation of the effects of each management system so it will not produce substantial and permanent impairment of the productivity of the land. 16 U.S.C. § 1604(g)(3)(A)–(C).

28. The regulations to be promulgated by October 22, 1978, must specify guidelines for land management plans relating to timber harvesting which:

(1) permit harvest level increases by intensified management practices if the practices justify increasing the harvest in accordance with the Multiple-Use Sustained-Yield Act of 1960, and if in cases in which those practices cannot be successfully implemented, harvest levels are decreased at the end of each planning period;

(2) insure timber harvests from Forest System lands only if: (a) soil, slope, or other watershed conditions will not be irreversibly damaged; (b) there is assurance that the lands can be adequately restocked within five years after harvest; (c) protection is provided for bodies of water from detrimental changes in water temperatures, blockages of watercourses, and deposits of sediment, where harvests are likely to seriously and adversely affect water conditions for fish habitat; and (d) the harvesting system is not selected because of "dollar return" or timber output.

(3) insure that even-aged management methods, including clear-cutting, will not be used unless (1) the method is determined to be appropriate and specifically, in the case of clearcutting, the "optimum method" to meet the objectives and requirements of the plan; (2) the interdisciplinary review as determined by the Secretary has been completed, and the potential impacts on each advertised sale area and the consistency of the sale with multiple use in the general area have been assessed; (3) cut blocks, patches or strips are shaped and blended with the natural terrain to the extent practicable; (4) maximum size limits are established for areas to be cut in one harvest operation (not applicable to areas harvested as a result of natural catastrophe), according to geographic areas, forest types, or "other suitable classifications," and provisions for exceptions after appropriate public notice and review by the responsible Forest Service officer; (5) such even-aged management cuts are carried out in a manner "consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources, and the regeneration of the timber resources." 16 U.S.C. § 1604(g)(3)(D).

29. SecAg must establish the standards to insure that stands of trees are not harvested until they have generally reached the culmination of mean annual increment

growth as determined by SecAg without precluding the use of sound silvicultural practices, including stand improvement measures, or salvage or sanitation harvesting. 16 U.S.C. § 1604(m)(1).

30. SecAg must establish exceptions to harvest standards to allow for harvesting of particular species on consideration of multiple uses and completion of the public participation process. 16 U.S.C. § 1604(m)(2).

B. **Management**

1. In developing plans SecAg must identify lands within the management area which are not suited for timber production and must assure that no timber harvesting other than salvage, sales, or sales protective of other multiple-use values takes place on those lands for ten years. 16 U.S.C. § 1604(k).

2. SecAg must review the unsuitable-for-timber production classification every 10 years and must return lands to timber production when SecAg determines they have become suitable. 16 U.S.C. § 1604(k).

3. The Forest Service is directed to expand its research in use of recycled and waste timber product materials, develop techniques for substitution of secondary materials, and promote use of recycled timber materials. 16 U.S.C. § 1600(7).

4. The method of financing roads should be such as to enhance "local, regional and national benefits," but financing of forest development roads authorized by 16 U.S.C. § 535(2) must be considered "budget authority" and "budget outlays" under 31 U.S.C. § 1302(a) and are to be effective as specified in 31 U.S.C. § 1351(a). 16 U.S.C. § 1608(a).

5. Roads constructed on national Forest Service lands must be designed to standards appropriate for intended use, and roads constructed in connection with a timber contract, other permit, or lease must be designed with the goal of reestablishing vegetative cover through natural or artificial means within ten years after the end of the contract, permit, or lease, unless the road is needed as part of national forest transportation system. 16 U.S.C. §§ 1608(b) and (c).

6. SecAg must take action to insure that development and administration of renewable resources is in full accord with multiple-use and sustained-yield concepts. 16 U.S.C. § 1607.

7. All backlogs of needed restorative treatment of renewable resources is to be reduced to a current basis, and the major portion of planned intensive management is to be implemented on an environmentally sound basis by the year 2000. Id.

8. Treatment for reforestation of land declared unsuitable for timber production shall continue. 16 U.S.C. § 1604(k).

9. SecAg must limit timber sold to a quantity not exceeding an amount that can be removed from a forest annually "in perpetuity on a sustained-yield basis" with exceptions. 16 U.S.C. § 1611(a).

10. On-the-ground field offices, field supervisory offices, and regional offices must be situated to give the optimum level of services to the public with priority to rural locations and towns near the forest and Forest Service programs according to 42 U.S.C. § 3122(b). 16 U.S.C. § 1609(b).

11. All necessary clerical and technical assistance shall be provided to the Committee of Scientists. 16 U.S.C. § 1604(h)(2).

12. Resource plans, permits, contracts, and other such instruments currently in existence must be revised as soon as practicable to be consistent with land management plans. 16 U.S.C. § 1604(i).

13. Forest Service lands may not be returned to the public domain without an Act of Congress. 16 U.S.C. § 1609(a).

14. SecAg shall make requests in the annual budget for the funds necessary to support an orderly program to eliminate the backlog of needed retroactive treatment for renewable resources. 16 U.S.C. § 1607.

15. The views of any committees appointed by SecAg to advise on proposed regulations or revisions thereof must be included in the public information supplied when the regulations are proposed for adoption. 16 U.S.C. § 1604(h)(1).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may as necessary establish and consult with advisory boards that are representative of a cross section of interested groups to get information and advice on providing for public participation in planning and management. 16 U.S.C. § 1612(b).

2. Plans may be amended in any manner after final adoption but an amendment that constitutes a "significant change" is to be treated as a "revision" which necessitates the public involvement and procedures required in the initial preparation of plans. 16 U.S.C. § 1604(f)(4).

3. Regulations promulgated by SecAg for land management planning may include items not listed in the Act so long as they are consistent with multiple-use sustained-yield and apply to the process for development and revision of land management plans. 16 U.S.C. § 1604(g).

4. The Program may include alternatives for management and administration of the National Forest System. 16 U.S.C. § 1602.

B. **Management**

1. SecAg may make whatever regulations deemed necessary in addition to those specifically required. 16 U.S.C. § 1613.

2. SecAg may use the Assessment, resource surveys, and Program to assist others in planning for management of renewable resources in non-federal lands. 16 U.S.C. § 1605.

3. Units of the National Forest System may be managed under existing plans pending development of new land management plans under the Act. 16 U.S.C. § 1603(c).

4. SecAg may allow timber sales for any one decade that depart from the projected long-term average that would be established by the "in perpetuity on a sustained yield basis" approach for the purpose of achieving "overall multiple-use objectives" if such departure is consistent with the multiple-use management objectives of the land management plan. 16 U.S.C. § 1611(a).

5. SecAg also may within any one decade sell more than the annual allowable sale quantity if the average sale quantities over the decade do not exceed annual allowable limitation. 16 U.S.C. § 1611(a).

6. SecAg may adjust the budget request for restoration of renewable resources if (a) the backlog of areas that will benefit from treatment has been eliminated, (b) the cost of treating the remainder exceeds the economic and environmental benefits, or (c) the total supply of renewable resources is adequate to meet the future needs of the United States. 16 U.S.C. § 1607.

7. SecAg may appoint committees of scientists to advise on proposed revisions of regulations. 16 U.S.C. § 1604(h)(1).

8. SecAg may use two or more forests for determining sustained yield in cases in which a forest has less than 200,000 acres of commercial forest land. 16 U.S.C. § 1611(a).

9. Notwithstanding the limitations on timber removal, SecAg may substitute or sell over and above plan volume or sanitation harvested timber that is substantially damaged by natural catastrophe or that is in imminent danger of insect or disease attack. 16 U.S.C. § 1611(b).

III. Mandatory Coordination

A. **Other Statutes**

1. NFMA requires coordination with Multiple-Use Sustained-Yield Act of 1960 (p. 39), the National Environmental Policy Act of 1969 (p. 147), and the Administrative Procedure Act.

B. **Groups**

1. Land management planning must be coordinated with the land and resource planning processes of state and local governments and other federal agencies. 16 U.S.C. § 1604(a).

2. SecAg must utilize data from other organizations and avoid duplication of resource assessment and program planning by other federal agencies. 16 U.S.C. § 1610.

3. In developing reports required under the Act, SecAg must provide a chance for public involvement and input from other interested governmental departments and agencies. 16 U.S.C. § 1601(c).

4. The Forest Service is directed to be a "catalyst" in encouraging and assisting private owners to manage their lands consistently with the principles and of sustained-yield and multiple-use. 16 U.S.C. § 1600(5).

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. NFMA refers to the following statutes: Organic Act of June 4, 1897; Creative Act of March 3, 1981; 42 U.S.C. § 3122(b) in § 1609(b); Multiple-Use Sustained-Yield Act (1960); 7 U.S.C. § 1010a; NEPA of 1969; Administrative Procedure Act, 5 U.S.C. § 553; 16 U.S.C. § 535(2); 31 U.S.C. §§ 1302(a), 1351(a); Public Law 88-657; 5 U.S.C. § 5703; and Tit. III, Bankhead-Jones Farm Tenant Act.

Note: The Forest and Rangeland Renewable Resources Research Act of 1978, 16 U.S.C. § 1641 (p. 73), and the Renewable Resources Extension Act of 1978, 16 U.S.C. § 1671 (p. 71), declare the RPA to be complementary to those Acts and require coordination between them. The Cooperative Forestry Assistance Act of 1978, 16 U.S.C. § 2101 (p. 75), amends the RPA oversight provisions to include the 1978 Act's requirements. 16 U.S.C. § 1606.

The NFMA regulations on the National Forest System Land and Resource Management Planning were promulgated on September 17, 1979 at 44 Fed. Reg. 53928. These Final Regulations became effective October 17, 1979. They amended Title 36 of the Code of Federal Regulations by adding a new Part 219.

The USDA enforcement functions as they relate to the consultative and approval duties by the Alaska Natural Gas Transportation System under this Act were transferred to the Federal Inspector, Office of the Federal Inspector of the Alaska Natural Gas Transportation System, by Reorganization Plan No. 1 of 1979. The transfer is effective from July 1, 1979, until one year after the date of initial operation of that system.

Federal Land Policy and Management Act (FLPMA)

90 Stat. 2743; 43 U.S.C. §§ 1701–1782, as amended. October 21, 1976.

Summary

The Act is comprehensive legislation for the management of public lands administered by the Secretary of Interior through the Bureau of Land Management, but it also contains provisions which affect SecAg's authority and responsibility in connection with rights-of-way, acquisition of lands, exchange of lands, withdrawals of lands from the public domain, and grazing in the sixteen contiguous Western States. The Act also adds new criteria for management of forest lands.

I. Requirements and/or Standards

A. Planning

1. Each acquisition of non-federal lands for access to units of the National Forest System must be consistent with the Forest Service's mission and land use plans. (SecAg's power to acquire lands by eminent domain within a national forest's boundaries is unaffected by this section.) 43 U.S.C. §§ 1715(a) and (b).

2. In making the determination whether an exchange of National Forest System land for non-federal land serves the public interest, SecAg must give "full consideration" to better federal land management and the needs of the state and local populations, specifically the community's land needs to support the economy, to provide for expansion and recreation areas, and to supply food, fiber, minerals and fish and wildlife. 43 U.S.C. § 1716(a).

3. In designating right-of-way corridors and in determining whether to confine rights-of-way to them, SecAg must consider national and state land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. 43 U.S.C. § 1763.

4. SecAg must issue regulations concerning the criteria and procedures he will use in designating right-of-way corridors. 43 U.S.C. § 1763.

B. Management

1. To the extent SecAg deems it necessary in determining whether a right-of-way should be granted, issued, or renewed and on what conditions, SecAg must require the applicant for a right-of-way to submit plans or information reasonably related to the proposed right-of-way, including its effect on competition, and, if the applicant is a business entity, SecAg must require a disclosure by the applicant of the entity's participants including, where applicable: (1) the name and address of each partner; (2) the name and address and the number and percentage of voting shares of each shareholder owning 3% or more of the shares; and (3) the name and address of each affiliate of the entity and the number of shares and percentage of voting stock owned by the affiliate in the entity or by the entity in the affiliate. 43 U.S.C. § 1716(b).

2. Each grant of a right-of-way must include terms or conditions which: (1) carry out the purposes of the Act; (2) protect the environment and scenic and aesthetic values; (3) require compliance with air and water quality standards; (4) require compliance with state standards for public health and safety if those standards are more strict than federal standards; and (5) such other terms and conditions deemed necessary by SecAg. 43 U.S.C. § 1765.

3. Each right-of-way shall be for a reasonable term determined by considering, among other things, the cost of the facility, its useful life, and any public purposes it serves. 43 U.S.C. § 1746(b).

4. To minimize environmental impacts and the proliferation of rights-of-way, SecAg must require use of rights-of-way in common to the extent practical and must reserve in each right-of-way the right to grant additional rights-of-way or permits for compatible uses on or adjacent thereto. 43 U.S.C. § 1763.

5. An "allotment management plan" (AMP) is a document prepared in consultation with the grazing lessees or permittees which (1) prescribes how livestock operations will be conducted to meet multiple-use, sustained yield, economic, and other needs and objectives as determined for the lands by SecAg; (2) describes the type, location, ownership, and general specifications for range improvements to meet the livestock grazing and other objectives of land management; and (3) contains such other provisions relating to livestock grazing and other objectives found by SecAg to be consistent with the law. 43 U.S.C. § 1702(k).

6. Grazing permits and leases on National Forest System lands within the sixteen contiguous Western States will be for ten–year terms unless (1) the land is pending disposal, (2) the land is to be devoted to another public purpose within ten years, or (3) a shorter period is necessary for sound land management; the absence from an AMP of undeveloped details shall not be a basis for a shorter term. 43 U.S.C. § 1752(1)–(b).

7. Holders of expiring grazing permits and leases must be given first priority for new grazing permits and leases if: (1) the land is still available for grazing under the land use management plan of § 5 of the RPA, (2) the holder has not violated grazing regulations nor any permit or lease condition, and (3) the holder accepts the conditions of the new lease or permit. 43 U.S.C. § 1752(c).

8. AMPs shall be tailored to the specific range condition of the area to be covered and shall be reviewed on a periodic basis to determine whether they have been effective in improving range conditions or whether the area can be better managed without an AMP under section 1752(e). 43 U.S.C. § 1752(d).

9. In all cases in which an AMP has not been completed or will not be prepared, SecAg must incorporate in grazing permits and leases: (1) the terms and conditions SecAg deems appropriate for management of the lands pursuant to applicable law; (2) specification of the numbers of animals to be grazed and the season of use; (3) a condition that SecAg may re-examine the range condition at any time; and (4) a condition that SecAg may, to the extent he deems necessary after re-examination, require an adjudgment in the amount or other aspect of grazing use. 43 U.S.C. § 1752(e).

10. AMPs must not refer to livestock operations or range improvements on non-federal lands except where they are intermingled with, or associated by, consent with the federal lands subject to the AMP. 43 U.S.C. § 1752(f).

11. If the values of land exchanged are not equal, to equalize the values, payments not to exceed 25% of the value of the federal land being transferred must be made by either party to the exchange; however, SecAg must attempt to minimize the amount of the money payment. 43 U.S.C. § 1716(b).

12. SecAg must promulgate rules and regulations to carry out the purposes of this Act with respect to lands within the National Forest System; until then, those lands are to be administered under existing rules and regulations to the extent practical. 43 U.S.C. § 1740.

13. SecAg must give two years' notice of grazing permit or lease cancellation except in an emergency. 43 U.S.C. § 1752(g).

14. If a grazing permit is cancelled in whole or in part so the land may be devoted to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value of his interest in authorized permanent improvement but not to exceed the fair market value. 43 U.S.C. § 1752(g).

15. Before October 1, 1988, AMPs shall be incorporated in grazing permits and leases when they are completed. 43 U.S.C. § 1752(d).

16. SecAg must grant grazing lessees and permittees the right of appeal from decisions which specify the terms and conditions of AMPs. 43 U.S.C. § 1752(f).

17. One half of the grazing fees collected in the sixteen contiguous Western States must be credited to a separate account in the Treasury, and SecAg must expend one-half that amount (25% of all fees collected) for on-the-ground range rehabilitation, protection, and improvement. 43 U.S.C. § 1751(b)(1).

18. SecAg must promulgate regulations specifying the extent to which a holder of a right-of-way shall be liable to the United States for damage or injury caused by its use and the extent to which such holder will indemnify or hold the United States harmless for liability. 43 U.S.C. § 1764(h).

19. Any regulation or stipulation imposing liability without fault shall include a maximum damage limit commensurate with the foreseeable hazards, and liability for damages in excess of that limit shall be determined by ordinary negligence rules. 43 U.S.C. § 1764(h).

20. If SecAg determines retention of the right-of-way over lands to be transferred from federal ownership is necessary, SecAg must either reserve that portion of the land lying within the right-of-way boundary or convey the land subject to the right-of-way and all rights therein. 43 U.S.C. § 1768.

II. Authorizations (non-mandatory activities)

A. Planning

1. SecAg may by purchase, exchange, donation, or eminent domain acquire non-federal lands for access to National Forest System lands. 43 U.S.C. § 1715(a).

2. SecAg may exchange National Forest System land for non-federal land if SecAg finds that the public interest will be well served by the exchange and that the values of the non-federal land and the public objectives attained by acquiring it are not outweighed by the values and objectives of retention of the land in federal ownership. 43 U.S.C. § 1716.

3. SecAg may decide how much information is needed from an applicant for the determination of whether a right-of-way will be granted, issued, or renewed and on what conditions. 43 U.S.C. §§ 1761(g), 1770(a).

4. SecAg may grant rights-of-way on Forest Service lands for the following purposes:

(1) reservoirs, pipes, canals, or other facilities for the impoundment, storage, transportation, or distribution of water;

(2) pipelines or other systems for transportation and distribution of, and facilities for storage of, liquids and gases other than water and other than oil, gaseous fuels, or their refined products;

(3) pipelines and other systems for the transportation and distribution of, and facilities for storage of, solid materials;

(4) systems for the generation and transmission of electric power if the applicant complies with FPC requirements under the Federal Power Act of 1935;

(5) systems for the transmission or reception of electronic or other communication signals;

(6) roads, trails, highways, and other means of transportation except where connected with commercial recreation facilities located on national forest land; and

(7) any other necessary transportation system or facility in the public interest that requires such a right-of-way. 43 U.S.C. § 1761.

5. SecAg may permit use by any federal agency or department of a right-of-way over Forest Service lands subject to such terms and conditions as SecAg may impose under this Act. 43 U.S.C. § 1767.

6. SecAg determines what conditions are needed in a right-of-way to: (1) protect federal lands; (2) efficiently manage adjacent lands; (3) protect lives and property; (4) protect resources in the area; (5) fix a location so as to minimize environmental impact; and (6) otherwise protect the public interest in the lands traversed. 43 U.S.C. § 1765.

7. SecAg may set whatever terms and conditions on grazing permits and leases for National Forest System lands within the sixteen contiguous Western states as deemed appropriate under the governing law, including cancellation or suspension authority for violation of a grazing regulation or a term of the permit or lease. 43 U.S.C. §§ 1752(a), (e).

B. Management

1. Areas may be designated and time periods established when no hunting or fishing will be allowed on federal lands for reasons of public safety, administration (not just easy supervision of other land uses), or compliance with applicable law. 43 U.S.C. § 1732.

2. SecAg may incorporate an AMP in grazing permits and leases to the extent that the development and incorporation of new AMPs is not precluded by the necessity of completing a court-ordered environmental impact statement. 43 U.S.C. § 1752(d).

3. SecAg may revise or terminate AMPs or develop new AMPs "from time to time" after the review for effectiveness required by this Act and "careful and considered cooperation and coordination" with the parties involved. 43 U.S.C. § 1752(d).

4. The absence of a completed land use plan or court-ordered environmental statement may be a basis for establishing less than a ten-year grazing permit or lease if SecAg determines that the information in either is needed to determine whether a shorter term shall be established because (1) the land is pending disposal, (2) the land will be devoted to another public purpose within 10 years, or (3) a shorter period is necessary for sound land management. 43 U.S.C. § 1752(b).

5. SecAg may decide whether an AMP is needed and will be prepared for livestock operations. 43 U.S.C. § 1752(e).

6. SecAg may decide what are appropriate regulations governing the appeal by lessees and permittees of decisions as to terms and conditions in the AMP. 43 U.S.C. § 1752(f).

7. SecAg determines how the one-half of the grazing fees account in the Treasury that must be spent on range betterment (25% of all fees collected) will be used. 43 U.S.C. § 1751(b)(1).

8. SecAg determines whether the one-half (25% of all fees collected) of the grazing fees will be used, if at all, for on-the-ground range betterment but only on the lands in the district, region, or national forest from which the fees were derived and only after consultation with district, regional, or national forest user representatives. 43 U.S.C. § 1751(b)(1).

9. If a grazing advisory board is established under this Act, SecAg decides the number of advisers on each board up to 15, the term of service for each, and the manner of their election. 43 U.S.C. § 1753(c).

10. If SecAg determines that a right-of-way has been abandoned or any provision of law, condition, or rule relating to the right-of-way has been violated, SecAg may suspend or terminate a right-of-way, after due notice to the holder and, in the case of easements, after an appropriate administrative proceeding. 43 U.S.C. § 1766.

11. Although failure for any continuous five-year period to use the right-of-way for its original purpose creates a rebuttable presumption of abandonment, SecAg may treat the presumption as having been overcome and not warranting suspension or termination if the failure of use is determined as due to circumstances beyond the holder's control. 43 U.S.C. § 1766.

12. SecAg may require advance payment for more than one year at a time if the annual rental is less than $100. 43 U.S.C. § 1764(g).

13. SecAg determines the fair market value as the annual payment for a right-of-way. 43 U.S.C. § 1764.

14. SecAg may waive rentals when a right-of-way is in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. 43 U.S.C. § 1764(g).

15. SecAg may by regulation or right-of-way condition require a right-of-way holder or applicant to reimburse the United States for all reasonable costs of processing an application and inspection and monitoring of construction operation and termination of the facility. 43 U.S.C. § 1764(g).

16. SecAg need not secure reimbursement when there is a cooperative cost-share right-of-way program between the United States and the holder. 43 U.S.C. § 1764(g).

17. SecAg may grant a right-of-way that cannot be assigned without SecAg's consent at no charge or at less than its fair market value in an amount that is equitable and in the public interest to: (1) a federal, state, or local government agency; (2) nonprofit organizations not controlled by profit-making enterprises; (3) a holder providing without charge or at a reduced charge a valuable benefit to the public or to a program of SecAg; or (4) a holder in connection with authorized use of federal land for which the United States is already being paid. 43 U.S.C. § 1764(g).

18. SecAg, when appropriate, may require a right-of-way holder to furnish satisfactory security for the performance of all obligations under the grant. 43 U.S.C. § 1764(i).

19. SecAg determines whether the applicant for a right-of-way has satisfactory technical and financial capability to construct the project. 43 U.S.C. § 1764(j).

20. In a new right-of-way granted in connection with realignment of a railroad, SecAg may provide the same terms and conditions with respect to payment of rental, duration, and nature of interest granted as in a right-of-way relinquished to the United States if SecAg considers it in the public interest and the lands involved are not within an incorporated community and are of approximately equal value. 43 U.S.C. § 1769.

21. If SecAg decides under applicable law to transfer lands covered by a right-of-way, SecAg may convey the land subject to the right-of-way, and SecAg also determines whether retention of federal control of the right-of-way is necessary. 43 U.S.C. § 1768.

22. With the consent of the holder SecAg may cancel any existing right-of-way and issue another in its stead. 43 U.S.C. § 1769(a).

III. Mandatory Coordination

A. Other Statutes

1. Distribution of money from grazing fees under this Act shall be in addition to distributions under § 10 of the Taylor Grazing Act (43 U.S.C. § 315) and shall not apply to distribution of money under § 11 of that Act. 43 U.S.C. § 1751(b)(2).

2. The holder of an expiring permit or lease is given first priority for a new lease or permit if, inter alia, the land is still available under the land use plans prepared under Section 5 of the RPA 1974, 16 U.S.C. § 1601. 43 U.S.C. § 1752(c).

3. If SecAg elects to develop an AMP for a given area, he shall do so in "careful and considered consultation, cooperation and coordination" with the lessees, permittees, and landowners involved, the district grazing advisory boards established under this Act, and any state having lands within the area to be covered by the AMP. 43 U.S.C. § 1752(d).

B. Groups

1. Federal Agencies

a. The Secretary of Interior rather than the President, is authorized to make, modify, and revoke withdrawals of lands from the public domain, subject, except in emergencies, to the consent of SecAg with respect to National Forest System lands. 43 U.S.C. §§ 1714(a), (e), and (i).

b. Withdrawals aggregating less than 5000 acres may be made by the Secretary of Interior acting on his own initiative or on the application of the head of another agency. 43 U.S.C. § 1714(d).

c. Withdrawals of more than 5000 acres are subject to veto by Congress and must not be for a period exceeding twenty years. 43 U.S.C. §§ 1714(c), (d).

d. An application submitted to a federal agency other than the Department of Interior or Agriculture that seeks a license, certificate, or other authority for a project involving a right-of-way or through National Forest System land must also be simultaneously submitted to SecAg along with all the information furnished to the other agency. 43 U.S.C. § 1771.

e. The Secretary of Interior may terminate or otherwise limit a right-of-way reserved for the use of any United States agency only with the consent of the agency head. 43 U.S.C. § 1767.

f. SecAg shall consult with the Secretary of Interior and the Secretary of Defense and take cooperative action to protect the California Desert Conservation Area within the framework of a program of multiple-use and sustained-yield and maintenance of environmental quality, including a program of law enforcement to protect the archeological and other values of the area and adjacent lands. 43 U.S.C. §§ 1781(b), (h).

g. SecAg as the head of the department which administers the National Forest System must submit a statement of concurrence or nonconcurrence in the recommendations concerning continuation of withdrawal of Forest Service lands to be included in the report of the Secretary of Interior's review, which is to be submitted before October 21, 1991. 43 U.S.C. § 1714(k).

2. State and Local Agencies

a. Except for emergencies, SecAg must consult with the appropriate state game and fish department before putting into effect any regulations on hunting and fishing under this Act. 43 U.S.C. § 1732.

3. Other

a. SecAg must coordinate land use plans for forest lands with land use planning and management programs for Indian tribes. 43 U.S.C. § 1712.

b. On petition of a majority of the livestock permittees or lessees under the jurisdiction of any national forest headquarters office with authority over at least 500,000 acres of lands subject to commercial grazing, SecAg must establish for that office a grazing advisory board of not more than 15 advisers to be selected by the livestock lessees and permittees in the area from their number. 43 U.S.C. §§ 1753(a), (c).

c. These grazing advisory boards must meet at least once a year to offer advice and make recommendations concerning development of allotment management plans and use of range betterment funds. 43 U.S.C. §§ 1753(b), (d).

d. The grazing advisory boards will cease on December 31, 1985. 43 U.S.C. § 1753(f).

IV. Authorized Coordination - none

V. Cross-references/Amendments/Repeals of Other Statutes

A. Withdrawals which closed lands in the National Forest System to appropriation under the Mining Law of 1872 (30 U.S.C. § 22 et seq.) and leasing under the Mineral Leasing Act of 1920 (30 U.S.C. § 181 et seq.) are subject to a 15-year review by the Secretary of Interior. 43 U.S.C. § 1714(1).

B. Section 211 of the Act authorizing conveyances of omitted lands by Secretary of Interior does not apply to any lands within the National Forest System as defined by 16 U.S.C. § 1601 (RPA of 1974). 43 U.S.C. § 1712(f).

C. The Townsites Act, 16 U.S.C. § 478a, 7 U.S.C. § 1012a, is amended by section 213 of this Act.

D. Promulgation of rules by SecAg to carry out this Act are to be governed by 5 U.S.C. ch. 5, except for § 553(a)(2). 43 U.S.C. § 1740.

E. Distributions from grazing fees collected under this Act are in addition to distributions under section 10 of the Taylor Grazing Act (43 U.S.C. § 315j), and section 10(b), 43 U.S.C. § 315i, of the Taylor Grazing Act is repealed. 43 U.S.C. § 1751.

F. Annual distribution of range betterment funds from grazing fees is not "a major Federal action requiring a detailed statement" under 42 U.S.C. § 4332(c). 43 U.S.C. § 1751(b)(1).

G. The provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 1, apply to grazing advisory boards established under this Act. 43 U.S.C. § 1753(e).

H. Rights-of-way for power transmission also must comply with FPC requirements under the Federal Power Act of 1935, 16 U.S.C. § 791. 43 U.S.C. § 1761(a)(4).

I. Where SecAg decides to terminate an easement, an administrative proceeding under 5 U.S.C. § 554 must be held. 43 U.S.C. § 1766.

J. SecAg may transfer lands from federal ownership subject to a right-of-way granted under the Act of November 16, 1973, 30 U.S.C. § 185. 43 U.S.C. § 1768.

K. This Act is to govern the issuance of any right-of-way for the purposes listed in this Act, but the National Forest Service Road and Trail Systems Act, 16 U.S.C. §§ 532–538, takes precedence over any provision of this Act conflicting with it, and SecAg shall not be required to do anything under this Act that is contrary to practices under the earlier Act. 43 U.S.C. § 1770.

L. Nothing in this Act is to be construed as precluding use of the lands covered for highway purposes under 23 U.S.C. §§ 107 and 317. 43 U.S.C. § 1770(b).

M. Nothing in this Act exempts a right-of-way holder from the U.S. antitrust law, 15 U.S.C. § 1 et seq. 43 U.S.C. § 1770(c).

N. This Act does not affect: distributions of livestock grazing revenues to local governments under the Granger-Thye Act, 16 U.S.C. § 580h; the Act of May 23, 1908, 16 U.S.C. § 550; the Act of March 4, 1913, 16 U.S.C. § 501; and the Act of June 20, 1910, 36 Stat. 557. 43 U.S.C. § 1701 note.

O. 43 U.S.C. § 932 relating to rights-of-way is repealed by section 706 of this Act.

P. The repeal of statutes insofar as they apply to issuance of rights-of-way through lands in the National Forest System is not to be construed as otherwise affecting the authority of SecAg under 16 U.S.C. § 551, 7 U.S.C. §§ 1010–1212, or 43 U.S.C. § 931c. 43 U.S.C. § 1701 note.

Q. Under section 704(a) of the Act, the implied authority of the President to make withdrawals and reservations and the following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Oct. 2, 1888	1069		25:527	662.
Only the following portion under the section headed U.S. Geological Survey: The last sentence of the paragraph relating to investigation of irrigable lands in the arid region, including the proviso at the end thereof.				
Mar. 3, 1891	561	24	26:1103	16 U.S.C. 471.
Mar. 1, 1893	183	21	27:510	33 U.S.C. 681.
Aug. 18, 1894	301	4	28:422	641.
Only that portion of the first sentence of the second paragraph beginning with "and the Secretary of the Interior" and ending with "shall not be approved."				
May 14, 1898	299	10	30:413	678a–4.
Only the fifth proviso of the first paragraph.				
June 17, 1902	1093	3	32:388	416.
Only that portion of section three preceding the first proviso.				
Apr. 16, 1906	1631	1	34:116	561.
Only the words "withdraw from public entry any lands needed for townsite purposes," and also after the word "case," the word "and."				
June 27, 1906	3559	4	34:520	561.
Only the words "withdraw and."				
Mar. 15, 1910	96		36:237	643.
June 25, 1910	421	1,2	36:847	141, 142, 16 U.S.C. 471(a).
All except the second and third provisos.				
June 25, 1910	431	13	36:858	148.
Mar. 12, 1914	37	1	38:305	975b.
Only that portion which authorizes the President to withdraw, locate, and dispose of lands for townsites.				
Oct. 5, 1914	316	1	38:727	569(a).
June 9, 1916	137	2	39:219	
Under "Class One," only the words "withdrawal and."				
Dec. 29, 1916	9	10	39:865	300.
June 7, 1924	348	9	43:655	16 U.S.C. 471.
Aug. 19, 1935	561	"Sec. 4"	49:661	22 U.S.C. 277c.
In "Sec. 4," only paragraph "c" except the proviso thereof.				
Mar. 3, 1927	299	4	44:1347	25 U.S.C. 398d.
Only the proviso thereof.				
May 24, 1928	729	4	45:729	49 U.S.C. 214.
Dec. 21, 1928	42	9	45:1063	617h.
Mar. 6, 1946	58		69:36	617h.
First sentence only.				
June 16, 1934	557	"Sec. 40(a)"	48:977	30 U.S.C. 229a.
The proviso only.				
May 1, 1936	254	2	49:1250	
May 31, 1938	304		52:593	25 U.S.C. 497.
July 20, 1939	334		53:1071	16 U.S.C. 471b.
May 28, 1940	220	1	54:224	16 U.S.C. 552a.
All except the second proviso.				
Apr. 11, 1956	203	8	70:110	620g.
Only the words "and to withdraw public lands from entry or other disposition under the public land laws."				
Aug. 10, 1956	Chapter 949	9772	70A:588	10 U.S.C. 4472, 9772.
Aug. 16, 1952	P.L. 87-590	4	76:389	616c.
Only the words "and to withdraw public lands from entry or other disposition under the public land laws."				

R. Section 706 repeals 43 U.S.C. § 932 and the following statutes and parts of statutes insofar as they apply to issuance of rights-of-way on public and National Forest System lands. See Chart below.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2339				661.
The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed: but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damages shall be liable to the party injured for such injury or damage."				
Revised Statutes 2340				661.
The following words only: " or rights to ditches and reservoirs used in connection with such water rights."				
Feb. 26, 1897	335		29:599	664.
Mar. 3, 1899	427	1	30:1233	665, 958 (16 U.S.C. 525).
The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plots of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoirs site when in his judgment the public interests will not be injuriously affected thereby."				
Mar. 3, 1875	152		18:482	934–939.
May 14, 1898	299	2-9	30:409	942–1 to 942–9.
Feb. 27, 1901	614		31:815	943.
June 26, 1906	3548		34:481	944.
Mar. 3, 1891	561	18-21	26:1101	946–949.
Mar. 4, 1917	184	1	39:1197	
May 28, 1926	400		44:668	
Mar. 1, 1921	93		41:1194	950.
Jan. 13, 1897	11		20:484	952–955.
Mar. 3, 1923	219		42:1437	
Jan. 21, 1895	37		28:635	951, 956, 957.
May 14, 1896	179		29:120	
May 11, 1898	292		30:404	
Mar. 4, 1917	184	2	39:1197	
Feb. 15, 1901	372		31:790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36:1253	951 (16 U.S.C. 5, 420, 523).
Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service."				
May 27, 1952	338		66:95	
May 21, 1896	212		29:127	962–965.
Apr. 12, 1910	155		36:296	966–970.
June 4, 1897	2	1	30:35	16 U.S.C. 551.
Only the eleventh paragraph under "Surveying the Public Land"				
July 22, 1937	517	31,32	50:525	7 U.S.C. 1010–1012.
Sept. 3, 1954	1255	1	68:1146	931c.
July 7, 1960	Public Law 86–608.		74:363	40 U.S.C. 345c.
Oct. 23, 1962	Public Law 87–852.	1–3	76:1129	40 U.S.C. 319. 319c.
Feb. 1, 1905	288	4	33:628	16 U.S.C. 524.

Note: The grazing advisory boards authorized by section 1753(a) do not replace the boards authorized to be established by the Granger-Thye Act in 16 U.S.C. § 580k.

The USDA enforcement functions as they relate to the consultation and approval duties by the Alaska Natural Gas Transportation System under this Act were transferred to the Federal Inspector, Office of the Federal Inspector of the Alaska Natural Gas Transportation System, by Reorganization Plan No. 1 of 1979. The transfer is effective from July 1, 1979, until one year after the date of initial operation of that system.

Renewable Resources Extension Act of 1978

92 Stat. 349, to be codified as 16 U.S.C. § 1671 et seq. October 1, 1978.

Summary

The Act acknowledges the common objectives of state and federal extension programs and coordinates those programs. It consolidates state extension programs and establishes a five-year plan, "Renewable Resources Extension Program," to coordinate state and federal extension programs. The Act emphasizes developing extension programs providing educational courses and dissemination of material on the rangeland and forest renewable resources.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must provide, use, and conduct educational programs dealing with research, analysis, and problems relating to range and forest renewable resources and their use; the needs of small, private, non-industrial forest landowners; range and fish and wildlife management programs; continuing education; and fish and wildlife, forest, range and watershed management. SecAg then must help forest and range landowners secure technical and financial assistance to resolve those problems. 16 U.S.C. § 1672.

2. The state director of cooperative extension programs and the administrative heads of extension for eligible colleges and universities within each state must jointly develop by mutual agreement a single, comprehensive, coordinated renewable resources extension program defining the role of each eligible college and university. 16 U.S.C. § 1673.

3. The state director and administrative heads of eligible universities and colleges must consult and seek agreement from administrative technical representatives and forestry representatives provided for by the Secretary under the McIntire-Stennis Act (p. 43). 16 U.S.C. § 1673.

4. Each state's renewable resources extension program must be submitted to the Secretary annually. Id.

5. SecAg must prepare a five-year plan, the "Renewable Resources Extension Program," to implement this Act and submit the plan to Congress by February 28, 1980, and every five years thereafter. 16 U.S.C. § 1674.

6. The Renewable Resources Extension Program must provide national emphasis and direction and guidance to state directors and administrative heads in development of their respective state renewable resource extension program. Id.

7. The Renewable Resources Extension Program must contain brief outlines of general extension programs for fish and wildlife management for both game and non-game species, range management, timber management, and watershed management, as well as general extension programs for recognition and enhancement of forest and range-based outdoor recreation opportunities for planting and management of trees and forests in urban areas, for trees and shrubs in shelter belts. Id.

B. **Management**

1. Eligible colleges and universities within the meaning of the Act means those identified under the Hatch Act, the Merrill Act, and the McIntire-Stennis Act. 16 U.S.C. § 1672.

2. The National Agricultural Research and Extension Users Advisory Board established under § 1408 of the Food and Agriculture Act of 1977 must review and make recommendations to SecAg concerning programs conducted under this Act. 16 U.S.C. § 1673.

3. The state's renewable resources extension program must be administered and coordinated by the state director or, where applicable, the state director and administrative head of the appropriate college receiving funds. Id.

4. State directors and administrative heads, for extension for eligible colleges and universities shall appoint and use one or more advisory committees composed of forest and range landowners and professionally trained individuals in fish and wildlife, forest, range, and watershed management as appropriate. 16 U.S.C. § 1673(d).

5. In preparing the renewable resources extension program, SecAg must consider the respective capabilities of private forests and rangelands for yielding renewable resources, the needs of those resources identified in the Renewable Resources Assessment under RPA, and the periodic appraisal of land and water resources under § 5 of the Soil and Water Resources Conservation Act of 1977. 16 U.S.C. § 1674.

6. SecAg must prepare an annual report to be submitted with each annual fiscal budget setting forth accomplishments of the renewable resources extension program, strengths and weaknesses of it, recommendations, and costs. 16 U.S.C. § 1674(c).

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. SecAg may prescribe the conditions for conducting educational programs for research analysis and resolution of problems relating to renewable forest and range resources. 16 U.S.C. § 1672.

2. Educational extension programs authorized under this Act may include meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs. 16 U.S.C. § 1672.

3. SecAg may issue whatever rules and regulations SecAg deems necessary to implement the provisions of this Act and coordinate it with Title XIV of the Food and Agriculture Act of 1977. 16 U.S.C. § 1676.

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Cooperation between state and federal extension programs, including those that manage forest and rangelands and renewable resources, is required under the state renewable resources extension program. 16 U.S.C. § 1673.

2. State and Local Agencies

a. SecAg must cooperate with state directors of extension service programs and eligible colleges and universities in implementing educational programs under the Act. 16 U.S.C. § 1672.

b. States must seek agreement with the technical representatives and forestry representatives provided for under the McIntire-Stennis Act in implementing the state renewable resources extension program. 16 U.S.C. § 1673(a).

3. Other

a. States must utilize committees composed of forest and range landowners and professionally trained individuals in fish and wildlife, forest, range, and watershed management in implementing their extension programs. 16 U.S.C. § 1673.

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. Eligible colleges and universities are those supported in whole or part by funds made available under the Act of July 2, 1862, 7 U.S.C. §§ 301–05, 307, and 308; the Act of August 30, 1890, 7 U.S.C. §§ 321–26, and 328; and the Act of October 10, 1962, 16 U.S.C. §§ 582a, 582a–1–582a–7. 16 U.S.C. § 1672.

B. The Advisory Committee appointed under the McIntire-Stennis Act (p. 43) is referred to in 16 U.S.C. § 1673.

C. The responsibilities of the National Agricultural Research and Extension Users Advisory Board are stated in 16 U.S.C. § 1673.

D. The RPA (p. 61) and Soil and Water Resources Conservation Act are referred to in 16 U.S.C. § 1674 and § 1675.

Note: The Act expires by its terms on September 30, 1988.

Forest and Rangeland Renewable Resources Research Act of 1978

92 Stat. 353, to be codified at 16 U.S.C. § 1641 et seq. October 1, 1978.

Summary

The Act consolidates previously existing statutory authority for various research programs of the Forest Service. It expressly authorizes specific types of renewable resource research through experiment stations, research grants, competitive grants, and cooperative agreements with public institutions and private individuals. The Act also coordinates the requirements of the annual Assessment under the RPA with the research efforts it authorizes.

I. Requirements and/or Standards

A. **Planning**

1. If research activities are undertaken, they must include at least (1) renewable resource management research, (2) renewable resource environmental research, (3) renewable resource protection research, (4) renewable resource utilization research, and (5) renewable resource assessment research. 16 U.S.C. § 1642.

2. SecAg must conduct the survey and analysis necessary to provide data for the RPA annual Assessment under fair and equitable plans. 16 U.S.C. § 1642.

3. SecAg must cooperate with appropriate public and private officials either directly or indirectly in conducting the necessary survey and analysis. Id.

B. **Management**

1. SecAg must make and keep current a comprehensive survey and analysis of the present and prospective conditions of, and requirements for, renewable resources of the forest and rangeland and their supplies, including productivity assessment and other necessary and useful information to balance the demand and supply of renewable resources to meet the needs of the people. 16 U.S.C. § 1642.

2. SecAg must determine what plans are fair and equitable in preparing the comprehensive survey and analysis. Id.

3. Money contributions received for research facilities and cooperation by donations must be credited to the appropriation of funds available for those purposes and must be available until expended for the authorized research or refunds to contributors. 16 U.S.C. § 1643.

4. SecAg must emphasize basic and applied research activities important to renewable resource research and must have participation in research activities by scientists throughout the United States with expertise in matters related to forest and rangeland renewable resources by having them review research activities. 16 U.S.C. § 1644.

5. Competitive research grants must be preceded by public solicitation of proposals with sufficient time for submission and consideration, and evaluation by SecAg in light of qualitative, quantitative, financial, administrative, and other facts SecAg deems important in evaluating and accepting proposals. Id.

6. SecAg must coordinate cooperative aid and grants with cooperative aid and grants made by SecAg under other authority. 16 U.S.C. § 1445.

7. SecAg must use all available means of authority to disseminate the knowledge and technology developed from research conducted under this Act. Id.

8. SecAg must cooperate with public institutions and private organizations or individuals in disseminating information acquired from research under this Act. Id.

9. In implementing the Act as SecAg deems appropriate and practical, SecAg must (1) use and encourage the use of the best available scientific skills from a variety of disciplines within and outside agriculture and forestry; (2) seek a mixture of short-term and long-term research as well as of basic and applied research; (3) minimize unnecessary duplications by coordinating activities among agencies of USDA and other federal departments, including state agricultural experiment stations, extension services, foresters and equivalent officials, forestry schools, and private research organizations; and (4) encourage development, employment, and retention of qualified scientists and other specialists. Id.

10. Money received by gift for research purposes must be deposited in the Treasury in a special fund. 16 U.S.C. § 1643.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may conduct, support, and cooperate in investigations, experiments, tests, and other activities SecAg deems necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas. 16 U.S.C. § 1642.

2. SecAg may establish and maintain a system of experiment stations, research laboratories, experimental areas, and other forest and rangeland research facilities. 16 U.S.C. § 1643.

B. **Management**

1. SecAg may acquire, by lease, donation, purchase, exchange, or other means interests in land needed to implement the Act and make necessary expenditures to examine, appraise, and survey the property to perfect title in the United States. 16 U.S.C. § 1643.

2. SecAg may accept, hold, and administer gifts of money or property from any source and use them to establish forest and rangeland research facilities or perform forest and rangeland renewable resource research activities authorized by the Act. Id.

3. SecAg may request the Secretary of the Treasury to invest money in a special fund of the Treasury not needed for current expenses. 16 U.S.C. 1643.

4. SecAg may receive money and other contributions from cooperators under this Act on whatever conditions SecAg may prescribe. Id.

5. SecAg may make competitive research grants in addition to those authorized under other laws for research activities authorized by this Act to federal, state, public or private institutions, universities, organizations, businesses, and individuals in the United States. 16 U.S.C. § 1644.

6. SecAg may impose whatever conditions SecAg deems appropriate on competitive research grants. 16 U.S.C. § 1644.

7. SecAg may reject any or all proposals for competitive research grants if SecAg determines it is in the public interest to do so. Id.

8. SecAg may make funds available to cooperators and grantors under this Act regardless of the prohibition on advances of public money under 31 U.S.C. § 529. 16 U.S.C. § 1645.

9. SecAg may issue necessary rules and regulations to implement this Act and to coordinate it with Title XIV of the Food and Agriculture Act of 1977. 16 U.S.C. § 1647.

10. SecAg may use funds appropriated under the McSweeney-McNary Act for expenditure on programs authorized by this Act. Id.

III. Mandatory Coordination

A. **Other Statutes**

1. This Act complements the policies and directions of the RPA. 16 U.S.C. § 1641.

2. SecAg must make a comprehensive survey and analysis of the conditions, requirements, supply, and demand of renewable resources of forests and rangelands to provide the data and information for the renewable resource assessment under the RPA. 16 U.S.C. § 1642.

3. This Act supplements all other acts relating to USDA and does not limit or repeal any existing law or authority of SecAg's except as specifically indicated. 16 U.S.C. § 1645.

4. SecAg must coordinate this Act with Title XIV of the Food and Agriculture Act of 1977. 16 U.S.C. § 1647.

B. **Groups**

1. Federal Agencies

a. SecAg must coordinate investment of contributions for research facilities in cooperation with the Secretary of the Treasury. 16 U.S.C. § 1643.

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination

A. **Other Statutes**

1. SecAg may use funds appropriated under the McSweeney-McNary Act for expenditures on programs authorized by this Act. 16 U.S.C. § 1647.

B. **Groups**

1. Federal Agencies

a. SecAg may cooperate with federal, state and private agencies, institutions, universities, and organizations in the United States in carrying out programs, cooperative agreements, and cooperative research grants under the Act. 16 U.S.C. §§ 1643, 1644, and 1645.

2. State and Local Agencies - none

3. Other - none

V. Cross-references to Other Statutes

A. The RPA (p. 61) is referred to in 16 U.S.C. §§ 1641 and 1642.

B. The Act makes minor amendments in terminology in the Department of Agriculture Appropriation Act of 1952. 16 U.S.C. § 581a-1 and 16 U.S.C. § 1643.

C. The Act authorizes payment of public funds to cooperators and grantees under the Act notwithstanding the prohibition on advances of public money in 31 U.S.C. § 529. 16 U.S.C. § 1645.

D. The McSweeney-McNary Act, 16 U.S.C. §§ 581, 581a, 581b–581i (p. 17) is repealed in 16 U.S.C. § 1647.

E. Contracts and cooperative agreements under the McSweeney-McNary Act remain in effect until revoked or amended by their terms or other laws. Id.

F. SecAg must coordinate the Act with Title XIV of the Food and Agriculture Act of 1977, 7 U.S.C. § 3101. Id.

G. Funds appropriated under the McSweeney-McNary Act (p. 17) are available for programs authorized by this Act. Id.

Cooperative Forestry Assistance Act of 1978

92 Stat. 365, to be codified at 16 U.S.C. § 2101 et seq. October 1, 1978.

Summary

This Act consolidates several programs of the Forest Service previously contained in various other statutes. It combines cooperative research programs under the Clarke-McNary Act (p. 13), the pest control programs under the White-Pine Blister Rust Protection Act (p. 83), and the Forest Pest Control Act (p. 83), cooperative research with states under the Cooperative Forest Management Act (p. 31), and the forestry incentives program under the Agricultural Act of 1970. The Act authorizes SecAg to conduct each of these programs on non-forest lands and provides funding and assistance for research needed to further these programs.

I. Requirements and/or Standards

A. **Planning**

1. The forestry incentives program must encourage landowners to use practices that achieve forestation of suitable open lands, reforestation of cut-over or other non-stocked or under-stocked forest lands, timber stand improvement practices, and forest resources management and protection to produce timber and other forest resources. 16 U.S.C. § 2103.

2. SecAg must administer the forestry incentives program according to regulations developed in consultation with the committee of five state foresters or equivalent officials selected by a majority of them participating in programs under the Act. 16 U.S.C. § 2103.

3. SecAg must distribute funds available for cost-sharing under the forestry incentives program among the states based on assessment of the public benefit from the cost-sharing considering the acreage or private commercial forest land in each state, the potential productivity of that land, the number of owners eligible for cost-sharing, the need for reforestation, timber stand improvement, or other investments, and the enhancement of forest resources. Id.

4. SecAg must encourage use of excess personal property under the federal statute by state and local fire forces receiving assistance under the Rural Fire Prevention and Control Section. 16 U.S.C. § 2106.

5. The Act does not provide any authority for the federal government to regulate the use of private property or condemn property rights or take property from private parties, states, or political subdivisions of states. 16 U.S.C. § 2110.

B. **Management**

1. The forestry incentives program shall continue to be administered under regulations issued under Title X of the Agricultural Act of 1970 to the extent they are not inconsistent with this Act. 16 U.S.C. § 2103.

2. The forestry incentives program regulations must include guidelines to administer § 2103 at federal and state levels and must identify activities eligible for cost-sharing. Id.

3. Cost-sharing by SecAg under forestry incentives agreements with states shall be in an amount that SecAg determines necessary and appropriate to implement the forestry practices and measures under the agreement, not to exceed 75% of the actual cost incurred by the landowner. Id.

4. No funds appropriated for the insect and disease control under the Act shall be retrieved for prevention or control programs on trees or non-federal land until the landowner with jurisdiction over the trees contributes or agrees to contribute an amount in a manner determined by SecAg. 16 U.S.C. § 2104.

5. Money appropriated for insect and disease control shall be available for any necessary expenses except for the cost of felling or removing dead or dying trees or compensating for the value of property injured or damaged by any cause, unless SecAg determines that the action is necessary to avoid the spread of a major insect infestation or disease epidemic. Id.

6. A special rural fire disaster fund must be established in the Treasury and immediately available for use by SecAg to supplement other monies available to carry out the purposes of cost with respect to rural fire emergencies as determined by SecAg after state and local resources are fully expended for a disaster fund. 16 U.S.C. § 2106(f).

7. Consolidated payments to any state during any fiscal year must not exceed the total amount expended of non-federal funds within the state during the year to implement its state forest resource program. 16 U.S.C. § 2108(f).

8. SecAg must consolidate payments in a manner that shall not adversely affect or eliminate any program authorized under the Act. Id.(e).

9. SecAg cannot authorize cost-sharing with landowners owning more than 5,000 acres of private forest land under the forestry incentives program. 16 U.S.C. § 2103.

10. The regulations for the forestry incentives program must include guidelines for administration of the program at the federal and state levels and identify measures and activities eligible for cost-sharing. 16 U.S.C. § 2103.

11. The forestry incentives program agreement between the landowner and SecAg must be based on individual forest management plans developed by the landowner in cooperation with, and approved by, the state forester or equivalent state official. 16 U.S.C. § 2103.

12. SecAg must encourage participating states in the forestry incentives program to use private agencies, consultants, organizations, and firms to the extent feasible in preparation of the individual forest management plans. Id.

13. SecAg must agree to share costs of implementing the forestry practice set forth in the agreement for which cost-sharing is determined to be appropriate by SecAg in return for a forestry incentives agreement by the landowner. Id.

14. The maximum amount for any individual under the forestry incentives program must be determined by SecAg in consultation with the five-person state forestry advisory committee. Id.

15. Insect, disease, and control operations on lands not controlled or administered by SecAg cannot be conducted without the consent, cooperation, and participation of the landowner having jurisdiction over the affected lands. 16 U.S.C. § 2104.

16. SecAg must use forest resource planning commitees at national and state levels to implement the management assistance, planning assistance, and technological implementation section of the Act. 16 U.S.C. § 2107.

17. Consolidated payments under the Act cannot include money appropriated under § 4 for the forestry incentives program or the special Treasury fund created under the Act. 16 U.S.C. § 2108.

18. Consolidated payments made under the Act must be based on state forest resources programs developed by the state foresters or equivalent state officials and reviewed by the Secretary. Id.

19. The maximum consolidated payments by SecAg to any state cannot exceed the amount of non-federal funds expended within the state to implement its state forest resources program. Id.

20. SecAg can consolidate payments to states based upon state forest resource programs developed by state foresters or equivalent state officials and reviewed by SecAg. 16 U.S.C. § 2108.

21. Money appropriated under the Act shall remain available until expended. 16 U.S.C. § 2109.

22. SecAg must consult with the committee of not less than five state foresters or equivalent officials selected by a majority of them from states participating in programs under the Act in determining the requirements for the development of state forest resources programs and for state participation in management assistance, planning assistance, and technology implementation, the apportionment of funds among states participating under the Act, the administrative expenses of activities and programs under the Act, and the amounts expended by the Secretary to assist non-state cooperators under the Act. 16 U.S.C. § 2109.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may develop and implement a forestry incentives program to encourage the development, management, and protection of non-industrial private forest lands. 16 U.S.C. § 2103.

2. SecAg determines the guidelines for the administration of the forestry incentives program. 16 U.S.C. § 2103 (d).

3. SecAg determines the measures and activities eligible for cost-sharing. 16 U.S.C. § 2103(d).

4. SecAg is authorized to protect from insects and diseases trees, forests, wood products, stored wood, and other wood in use directly on the National Forest System and in cooperation with the landowners on other lands in the United States. 16 U.S.C. § 2104(a).

B. **Management**

1. SecAg is authorized to use additional protective functions including, surveys, studies, and obtaining effects of insect and disease problems.

2. SecAg is authorized to provide financial, technical, and related assistance to state foresters or equivalent officials to get cooperation from local governmental units, encourage urban forestry programs, and use open space and green belts in urban areas. 16 U.S.C. § 2105(b).

3. SecAg is authorized to cooperate with state foresters or equivalent officials in preventing and controlling fires on rural lands or communities, to provide financial, technical, and related assistance in fire prevention methods and prescribed use of fires on non-federal forest and other lands, and to organize fire fighting forces. 16 U.S.C. § 2106(b).

4. SecAg is authorized to provide financial, technical, and related assistance to states to develop efficient state organizations that enable states to perform their responsibilities of protection and management of non-federal forest lands. 16 U.S.C. § 2107(c).

III. Mandatory Coordination

A. **Other Statutes**

1. This Act complements the policies and directions set forth in the RPA. 16 U.S.C. § 2101.

2. SecAg must seek to coordinate the assistance SecAg provides for rural fire prevention and control with any assistance provided by the Secretary of Commerce under the Federal Fire Prevention and Control Act of 1974. 16 U.S.C. § 2106.

3. SecAg must cooperate and assist the Administrator of General Services in using excess personal property for states and local fire-fighting forces under the Rural Fire Prevention and Control Program. 16 U.S.C. § 2106.

4. SecAg must cooperate with the Secretary of the Treasury in setting up a rural fire disaster fund. Id.

5. SecAg must work with the state foresters and equivalent state officers in carrying out the forestry incentives program or with Indian or other native groups. 16 U.S.C. § 2103.

B. **Groups**

1. Federal, State, and Local Agencies

a. SecAg must cooperate with state and federal agencies and the state foresters advisory committee in carrying out the forestry incentives program. 16 U.S.C. § 2103.

b. SecAg is directed to cooperate with state and federal officials in carrying out the insect and disease control programs on non-federal lands. 16 U.S.C. § 2104.

c. SecAg is directed to cooperate with state foresters and local governmental units in carrying out the urban forestry assistance program. 16 U.S.C. § 2105.

d. SecAg is directed to cooperate with state and federal officials in rural fire prevention and control on non-federal lands. 16 U.S.C. § 2106.

e. SecAg must use a forest resources planning committee at national and state levels in implementing federal assistance programs. Id.

f. In carrying out the Act, SecAg must, to the maximum extent possible, work through, cooperate with, and assist state foresters and equivalent officials, and encourage cooperation and coordination between state foresters or equivalent state officials in other state agencies that manage natural resources. 16 U.S.C. § 2109.

g. SecAg must use and encourage cooperators to the maximum extent practicable to use private agencies, consultant organizations, firms, and individuals to furnish necessary materials and services.. Id.

2. Other - none

IV. Authorized Coordination

A. **Other Statutes**

1. Regulations issued under the Agricultural Act of 1970 remain in force. 16 U.S.C. § 1501.

2. SecAg may use authority under the forestry incentives program of the Agricultural Act of 1970 added by the Agriculture and Consumer Protection Act of 1973. 16 U.S.C. § 2103.

3. SecAg may pay funds to cooperators under this Act without regard to prohibition on advances of public money in 31 U.S.C. § 529. 16 U.S.C. § 2107.

4. This Act shall be construed as supplementing all other laws of the USDA and not limiting or repealing existing law or authority. 16 U.S.C. § 2109.

B. **Groups**

1. Federal, State, and Local Agencies

a. SecAg may cooperate with state and federal officials in carrying out the management assistance, planning assistance, and technology implementation programs, including training state forestry personnel and studying effective laws and methods and practices of forest management. 16 U.S.C. § 2107.

2. Other - none

V. Cross-references to Other Statutes

A. The cooperative forestry assistance programs are coordinated with the RPA in 16 U.S.C. §§ 2101 and 2110, which amend RPA (p. 61).

B. The forestry incentives program under Title X of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (p. 57) is referred to, amended, and repealed in part in 16 U.S.C. §§ 2103 and 2111.

C. Federal Fire Prevention and Control Act of 1974 is referred to in 16 U.S.C. § 2106.

D. Rural areas for the rural fire prevention and control program adopt the definition contained in 7 U.S.C. § 1926, the Consolidated Farm and Rural Development Act, in 16 U.S.C. § 2106.

E. Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 471, is referred to in 16 U.S.C. § 2106.

F. The prohibition on advances of public money in 31 U.S.C. § 529 is made inapplicable in 16 U.S.C. § 2107.

G. Sections 1–4 of the Clarke-McNary Act, 16 U.S.C. §§ 564, 565, 566, and 567 (p. 13) are repealed in 16 U.S.C. § 2111.

H. The White-Pine Blister Rust Protection Act, 16 U.S.C. § 594a (p. 83) and the Forest Pest Control Act (p. 83) are repealed in 16 U.S.C. § 2111.

I. The Cooperative Forest Management Act, 16 U.S.C. §§ 568c and d, 16 U.S.C. § 594–1 (p. 31), § 401 of the Agriculture Act of 1956 (p. 33), 16 U.S.C. § 568b, and Title IV of the Rural Development Act of 1972 (p. 55), 16 U.S.C. § 568e are repealed in 16 U.S.C. § 2111.

J. The forestry incentives program in § 1009 and the proviso to § 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973, 16 U.S.C. §§ 1509 and 1510 (p. 57) are repealed in 16 U.S.C. § 2111.

K. Contracts, cooperative agreements, and other agreements under cooperative forestry programs repealed by the Act remain in effect until revoked or amended by their own terms or other laws. Id.

L. Funds appropriated under authorities of other Acts are available for programs authorized under this Act. Id.

Public Rangelands Improvement Act of 1978

92 Stat. 1803; 43 U.S.C. §§ 1901–1908. October 25, 1978.

Summary

Declaring a national policy of improving the range conditions of public grazing lands, this Act establishes a long-term program to improve conditions and specifies a method for determining grazing fees until 1985. The Act also amends FLPMA of 1976 (p. 65) and the Wild and Free-Roaming Horses and Burros Act of 1971 (p. 151). (The planning sheets for those Acts include the amendments.)

I. Requirements and/or Standards

A. **Planning**

1. In accordance with section 5 of the RPA of 1974 (16 U.S.C. § 1603) (p. 61) SecAg must update, develop (where necessary), maintain, and keep current an inventory of range conditions and record of trends of range conditions on those Forest Service lands in the sixteen contiguous Western States which are either determined by SecAg as suitable for grazing or on which there is grazing. 43 U.S.C. §§ 1902(a), 1903(a).

2. SecAg must develop and implement on an experimental basis on selected areas of representative rangelands a program which provides incentives or rewards to grazing permit holders and lessees whose stewardship results in range improvement. 43 U.S.C. § 1908(a).

3. The experimental stewardship program must explore innovative policies and systems which might provide incentives to improve range conditions. 43 U.S.C. § 1908(a).

B. **Management**

1. On the basis of the inventory of rangeland conditions and trends required by this Act, SecAg must categorize or identify such lands. 43 U.S.C. § 1903.

2. The rangeland inventory must be made available to the public. 43 U.S.C. § 1903.

3. For the grazing years 1979 through 1985, SecAg must charge a grazing fee which Congress finds represents the economic value of the use of the land to the user and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Economic Research Service) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100, except that the annual increase or decrease in fee for any given year may not be any more than 25% of the previous year's fee. 43 U.S.C. § 1908(a).

4. No later than December 31, 1985, SecAg must report to Congress the results of the experimental stewardship program, the evaluation of the fee established by Congress and other grazing fee options, and recommendations to implement a grazing fee schedule for 1986 and subsequent years. 43 U.S.C. § 1908(b).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg determines the rangeland areas representative of the broad spectrum of range conditions, trends, and forage values that will be selected for the experimental stewardship program. 43 U.S.C. § 1908.

2. The incentives which may be used to improve range conditions in the experimental stewardship program may include: (1) cooperative range management projects between federal and state agencies that manage the rangelands and local private users; (2) payment of up to 50% of the amount due the federal government from grazing permittees in the form of range improvement work; and (3) such other incentives as SecAg may deem appropriate. 43 U.S.C. § 1908(a).

B. **Management**

1. SecAg determines which rangelands are appropriate to be categorized or identified in the rangeland inventory. 43 U.S.C. § 1903.

III. Mandatory Coordination

A. **Other Statutes**

1. The policies of this Act are supplemental to and not in derogation of the purposes for which public rangelands are administered under other laws. 43 U.S.C. § 1901 (c).

B. **Groups** – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. An incentive that may be used in the experimental stewardship program is cooperative management projects between local private range users and federal and state agencies that manage rangelands. 43 U.S.C. § 1908(a)(1).

Special Use Permits

38 Stat. 1101; 16 U.S.C. § 497, as amended. March 4, 1915.

Summary

This section gives SecAg authority to grant special use on national forest land. The authorized uses include hotels, resorts or recreational facilities, summer homes and stores, industrial and commercial uses, and state buildings for educational purposes or public uses. The Act imposes limits on time and area of land to be used for different purposes.

I. Requirements and/or Standards

A. **Planning** - none

B. **Management**

1. National forest lands on which special uses are permitted must be "suitable." 16 U.S.C. § 497.

2. Permits for the use of national forest land either for resort or recreational structures or facilities or for commercial or industrial uses must not exceed 80 acres of land nor periods of 30 years. Id.

3. Areas of national forest land for summer homes and stores may not exceed five acres of land nor periods of 30 years. Id.

4. Permits for the use of national forest land by states for educational purposes or public use or activities must not exceed 80 acres nor a period of 30 years. Id.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may permit the use and occupation of suitable areas of national forest lands for hotels, resorts, or other recreational structures and facilities; for summer homes and stores; for building structures and facilities for industrial or commercial purposes that are related to or consistent with other uses of national forests; and for construction and maintenance of buildings or facilities for educational or public uses by a state. 16 U.S.C. § 497.

2. SecAg may issue regulations necessary to carry out the special use permits. Id.

3. SecAg may impose whatever terms and conditions he deems proper in granting a special use permit. Id.

B. **Management**

1. The special use permit authority must not be used in a manner that would preclude the general public from the full enjoyment of the natural, scenic, recreational and other aspects of the national forest. 16 U.S.C. § 497.

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Note: The use and occupation of lands in Alaska by permit for stated purposes and on stated conditions is covered in 16 U.S.C. § 497a.

The White-Pine Blister Rust Protection Act and Forest Pest Control Act

54 Stat. 168; 16 U.S.C. § 594a and 61 Stat. 177; 16 U.S.C. §§ 594-1-594-5. April 26, 1940, and June 25, 1947.

Summary

The White-Pine Blister Rust Protection Act authorizes SecAg to cooperate with various agencies in suppressing white-pine blister rust. It applies to private lands only if they are intermingled with federal lands that must be protected and then only on a matching funds basis from the state government or private owner. The Forest Pest Control Act authorizes SecAg to survey forest lands to determine if they are threatened by pest or disease, and if so, to take steps to control the threatened conditions. SecAg is authorized to cooperate with public or private agencies, organizations, or individuals in carrying out the purposes of the Act. The Act applies to publicly and privately owned lands, although work on privately owned lands requires contributions from the owner.

I. Requirements and/or Standards

A. **Planning**

1. If SecAg proposes disease or insect prevention or control operations on lands under the jurisdiction of another federal agency, SecAg must get the consent of the other federal agency before conducting those operations. 16 U.S.C. § 594-2.

2. No funds may be expended under the White-Pine Blister Rust Protection Act on state or private lands that are not intermingled with or immediately adjacent to federal forest lands unless the state or private parties contribute an amount at least equal to the federal expenditure. 16 U.S.C. § 594a.

3. No plans for the control or elimination of white-pine blister rust on lands owned by or held for Indians shall be undertaken without the approval of the individual Indians or Indian tribes. 16 U.S.C. § 594a.

B. **Management**

1. SecAg must determine what contribution, including funds, services, or materials, from the owners of non-federal forest lands will be required before the federal expenditure is made. 16 U.S.C. § 594-4.

2. No money shall be expended under the Forest Pest Control Act on non-federally-owned forest lands until contributions required by SecAg have been made by the non-federal owner. 16 U.S.C. § 594-4.

3. Funds appropriated under the Forest Pest Control Act shall be available for necessary expenses but not to pay the cost or value of property injured or destroyed. 16 U.S.C. § 594-5.

4. No funds appropriated under the White-Pine Blister Rust Protection Act may be used to pay the cost or value of property damaged or destroyed. 16 U.S.C. § 594a.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may directly or in cooperation with other federal or state departments or agencies or private persons or organizations conduct surveys on any forest lands to detect and appraise disease or pest problems and to determine appropriate control measures. 16 U.S.C. § 594-2.

2. SecAg may plan and conduct protection and control operations SecAg deems necessary to carry out the purposes of the Forest Pest Control Act. 16 U.S.C. § 594-2.

3. SecAg may make available funds appropriated under the Forest Pest Control Act to other federal agencies to expend on programs of pests and disease control on lands under the other federal agencies' jurisdiction. 16 U.S.C. § 594-3.

4. SecAg may cooperate with agencies SecAg deems necessary to use the funds appropriated for control of white-pine blister rust. 16 U.S.C. § 594a.

5. SecAg may use appropriated funds under the White-Pine Blister Rust Protection Act to prevent the spread or aid the control of white-pine blister rust on all forest lands irrespective of ownership if SecAg determines the expenditure is necessary to control the disease. 16 U.S.C. § 594a.

6. SecAg may make funds available under the White-Pine Blister Rust Protection Act to federal agencies as may be necessary to control white-pine blister rust on lands owned by or held for Indians. 16 U.S.C. § 594a.

B. **Management**

1. SecAg determines what measures are necessary to control or protect forest lands from disease or insects to carry out the purposes of the Forest Pest Control Act. 16 U.S.C. § 594-2.

2. SecAg determines what appropriated funds are necessary to control pests and disease on federal lands under the control of other agencies and the amounts to be available to the other agencies to carry out the purposes of the Act. 16 U.S.C. § 594-4.

3. SecAg may purchase materials and equipment necessary for control or eradication of insects or disease according to procedures prescribed by SecAg when it is in the public interest. 16 U.S.C. § 594-5.

4. SecAg determines when the expenditure of funds is necessary to control white-pine blister rust on private or public lands. 16 U.S.C. § 594a.

5. SecAg may use monies appropriated under the White-Pine Blister Rust Protection Act to make allocations to federal agencies for control and elimination of the disease on federal lands owned by Indians or Indian tribes. 16 U.S.C. § 594a.

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. Prevention and control measures under the Forest Pest Control Act on federal lands under the jurisdiction of other federal agencies must be done by SecAg only with the consent of the other agencies. 16 U.S.C. § 594-2.

b. Plans for the control or elimination of white-pine blister rust on lands owned by Indians or held for Indian tribes must be undertaken only with the approval of the Indians or Indian tribes. 16 U.S.C. § 594a.

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. SecAg may provide appropriated funds under the Forest Pest Control Act to control or protect federal lands under the jurisdiction of another federal agency to that agency. 16 U.S.C. § 594–3.

2. State and Local Agencies

a. Programs for prevention and control of disease or pests or white-pine blister rust may be carried out in cooperation with state and local governments. 16 U.S.C. § 594–2 and 16 U.S.C. § 594a.

3. Other

a. Programs for control or protection from pests, disease, or white-pine blister rust may be carried out in cooperation with private organizations or individuals. 16 U.S.C. § 594–2 and 16 U.S.C. § 594a.

V. Cross-references to Other Statutes – none

Note: The White-Pine Blister Rust Protection Act and the Forest Pest Control Act were both repealed effective October 1, 1978, by the Cooperative Forestry Assistance Act of 1978, 16 U.S.C. § 2104 (p. 75).

Townsite Act

72 Stat. 438; 7 U.S.C. § 1012a and 16 U.S.C. § 478(a), as amended. July 31, 1958.

Summary

The Act authorizes SecAg to sell up to 640 acres of land to established communities in the eleven contiguous Western States and Alaska on stated conditions. Any sale must be preceded by public notice and an established community showing the need for the townsite.

I. Requirements and/or Standards

A. **Planning**

1. A transfer of land as a townsite to an established community must be preceded by Sec Ag's determination that the land is adjacent or contiguous to the established community and that the transfer serves "indigenous community objectives that outweigh the public objectives and values" of federal ownership. 16 U.S.C. § 478(a).

2. A townsite area may not exceed 640 acres of national forest land per application. Id.

3. The sale of the townsite area by SecAg to an established community must be preceded by public notice and a "satisfactory showing of need" by any local governmental subdivision. Id.

4. The sale price for a townsite area must be at least its fair market value. Id.

B. **Management** - none

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg determines whether a transfer of a townsite area serves community values that outweigh the public objectives of the federal township. Id.

2. SecAg determines the "public values and objectives" of federal ownership. Id.

3. SecAg determines whether need for the transfer of the townsite has been satisfactorily shown by the local governmental subdivision. Id.

B. **Management**

1. SecAg may require the grantee of the townsite to enact and enforce a valid ordinance assuring that the land conveyed will be managed in a manner consistent with the protection management and development of adjacent or contiguous national forest lands. Id.

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies - none
2. State and Local Agencies

a. SecAg must cooperate with local state governmental subdivisions in carrying out the purposes of this provision. 16 U.S.C. § 478(a).

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Alaska Native Claims Settlement Act

85 Stat. 688; 43 U.S.C. §§ 1600–1628, as amended. December 18, 1971.

Summary

This Act provides the means for settlement of claims by native Americans or groups to public lands in Alaska based on aboriginal title, rights, or use. Under the Act the Secretary of Interior is authorized to withdraw public lands from use and make them available to Village Corporations, established under the Act, of native Americans entitled to benefits under this Act. The Secretary of Interior determines which native Americans qualify for membership in the Village Corporations. The Village Corporations then select eligible acreage according to stated criteria and subject to any existing rights in the land. Secretary of Interior conveys the land to the corporation. The trade-off for giving stated quantities of public land to native Americans is that the Act extinguishes all claims of native Americans to the public land based on aboriginal title or use. The basic administrative mandate of the Act is to the Secretary of Interior who is given wide latitude in administration of all federal public lands to carry out the mandates of the statute. The parts of the statute analyzed below are those that directly relate to the Forest Service.

I. Requirements and/or Standards

A. **Planning**

1. Public lands in each township that enclose all or part of any native village identified in the Act or a township that is contiguous to or corners on a township that wholly or partially encloses a native village, and a township that is contiguous to or corners on a township that is contiguous to or corners on the enclosing township are withdrawn from all forms of appropriation, including mining and mineral leasing laws and the Alaska Statehood Act selection process, subject to all valid existing rights. 43 U.S.C. § 1610(a)(1).

2. If the Secretary of Interior determines that the lands withdrawn under section 1610(a)(1) are insufficient to permit a Village or Regional Corporation to select the acreage it is entitled to select under the Act, the Secretary of Interior must withdraw three times the deficiency from the nearest unreserved, vacant, and unappropriated public land. 43 U.S.C. § 1610(a)(3).

3. The public lands in each township that enclose all or any part of a native village listed in section 1515 and in townships that are contiguous to or corner on the enclosing township are withdrawn from all forms of appropriation under the public land laws subject to existing rights and are available for acreage selection in the amount indicated. 43 U.S.C. § 1515.

4. Public Lands Law Order No. 4582, 34 Fed. Reg. 1025, as amended, is revoked. 43 U.S.C. § 1616(d)(1).

5. For a period of ninety days after December 18, 1971, all unreserved public lands in Alaska are withdrawn from all forms of appropriation under public land laws. Id.

6. During the ninety-day period the Secretary of Interior must review the public lands in Alaska and determine whether any of those public lands should be withdrawn pursuant to already existing statutory authority to be sure that the public interest is protected. Id.

7. Any further withdrawal requires an affirmative act by the Secretary of Interior under existing authority, and the Secretary of Interior may classify or reclassify any lands withdrawn or open up lands to appropriation. Id.

8. The authority of the Secretary of Interior to withdraw or reclassify lands shall not affect any acreage selection by a Village or Regional Corporation under the Act. 43 U.S.C. § 1616(d)(2)(A).

9. The Secretary of Interior must, under existing authority, withdraw up to but not exceeding 80 million acres of unreserved public lands in the State of Alaska from all forms of appropriation under the public land laws and from selection under the Alaska Statehood Act and from selection by regional corporations. Those 80 million acres include previously classified land, which the Secretary of Interior deems are suitable for additions or creation as units of the national park, forest, wild refuge, and wild and scenic rivers system, providing that the withdrawals do not affect the Village or Regional Corporation's selection rights under this Act. 43 U.S.C. § 1616(d)(2)(A).

B. **Management**

1. In making withdrawals of land for selection by Village Corporations when a deficiency exists, the Secretary of Interior must as far as possible withdraw public lands of a character similar to those on which the village is located. 43 U.S.C. § 1610.

2. The Secretary of Interior must make the withdrawal required under § 1610 on the basis of the best available information within 60 days of December 18, 1971, or as soon thereafter as is practicable. Id.

3. No Village Corporation may select more than 69,120 acres in a national forest. 43 U.S.C. § 1611.

4. Land withdrawn under § 1616(d)(2)(A) must be withdrawn within nine months after December 18, 1971, and any land not withdrawn pursuant to that section or § 1616(d)(1) shall be available for selection by the state or for appropriation under the public land laws. 43 U.S.C. § 1616(d)(1).

5. Every six months after December 18, 1971, for two years the Secretary of Interior must advise Congress of the location, size, and value of lands withdrawn under this section and his recommendations with respect to those lands. 43 U.S.C. § 1616(d)(2)(C).

6. Any lands withdrawn pursuant to § 1616(d)(2)(A), not recommended for addition or creation as units of the national park, forest, wildlife refuge, and wild and scenic rivers systems at the end of two years, shall be available for selection by the state and the regional corporations and for appropriation under the public land law. Id.

7. Areas the Secretary of Interior has recommended shall remain withdrawn from appropriation until Congress acts on the Secretary's recommendations, which action is not to exceed five years from the recommendation date. 43 U.S.C. § 1616(d)(2)(B).

8. Lands withdrawn under § 1616 shall be subject to the administration by the Secretary of Interior under applicable laws and regulations. 43 U.S.C. § 1616(d)(3).

9. Under this Act any patents to land which is within the boundaries of the national forest must contain whatever conditions the Secretary of Interior deems necessary to assure application of the same USDA export restrictions on the sale of timber from that land as are applicable for timber sales on other national forest lands. The lands must remain managed under the principle of sustained-yield and management for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands for a period of twelve years. 43 U.S.C. § 1612(k).

10. Management of lands withdrawn under §§ 1610, 1613, or 1615 are subject to the administration of

SecAg with respect to national forest land under applicable laws and regulations, and the withdrawal in no way impairs existing statutory authority for SecAg. 43 U.S.C. § 1621(i).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. Secretary of Interior may withdraw and convey two million acres of unreserved and unappropriated public lands outside areas withdrawn by §§ 1610 and 1615 including, inter alia, lands out of the national forests to give the appropriate Regional Corporations fee title to existing territory sites and historical places, or to a native group that is not a native village but incorporates under the laws of Alaska, to other resident Natives if they incorporate, and to an individual Native if the land has been occupied as a primary place of residence and does not exceed 160 acres. 43 U.S.C. § 1613.

B. **Management**

1. SecAg may modify any existing national forest timber sales contract affected by conveyances under this chapter with the consent of the purchaser by substituting, to the extent practicable, timber on other national forest land approximately equal in volume, species, grade, and accessibility for the timber affected by the conveyance. 43 U.S.C. § 1614.

2. SecAg may, on the request of the appropriate Village Corporation, make substitutions to existing national forest timber sales contracts affected by conveyances to the extent it is permitted under the timber sale contract with applicants and other purchasers. Id.

3. The Secretary of Interior determines which lands are available for the withdrawals authorized under 43 U.S.C. § 1616. 43 U.S.C. § 1616.

4. SecAg may exchange lands or interests therein with the native Group Corporations, Village Corporations, Regional Corporations, or any federal agency to effect land consolidation, to facilitate the management or development of the land, or for other public purposes. 43 U.S.C. § 1621(f).

5. SecAg in making the authorized exchanges based on equal value may accept or make cash payments to equalize the value of the property exchanged, unless SecAg determines that an exchange on other than an equal value basis is in the public interest. 43 U.S.C. § 1621.

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Timber Sales

90 Stat. 2958; 16 U.S.C. § 472a. October 22, 1976.

Summary

This Section was added by § 14 of NFMA, Pub. L. 94–588, which also repealed prospectively 16 U.S.C. § 476 of the Organic Act. Section 472(a) authorizes sales practices from Forest Service lands without requiring specific markings, except as necessary. It provides new sales procedures and purchaser's requirements. It also provides for contract time limits and for environmental protection.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must develop utilization standards, measurement methods, and harvesting practices for forest products removal that will provide the optimum practical use of the wood material. 16 U.S.C. § 472a.

2. The standards, methods, and practices must reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and must be compatible with multiple use resource management and objectives in the area. Id.

B. **Management**

1. All advertised timber sales must be designated on maps and a prospectus shall be available to the public and interested bidders. 16 U.S.C. § 472a(b).

2. The contract length must not be longer than ten years, unless there would be better utilization of various forest resources consonant with the Multiple-Use Sustained-Yield Act. 16 U.S.C. § 472a(c).

3. After the contract has been awarded, the purchaser must file an operation plan to be approved by SecAg. Id.

4. No contract for two years or more shall be extended unless (1) purchaser has diligently performed his plan of operation, or (2) substantial overriding public interest justifies the extension. Id.

5. Absent extraordinary circumstances or a sale with value less than $10,000 all sales must be advertised. 16 U.S.C. § 472a(b).

6. SecAg in the sale of national forest materials must select the bidding method or methods which (a) insures open and fair competition; (b) insures that the government receives at least the appraised value of the materials; (c) considers the economic stability of communities whose economies are dependent on these national forest materials or achieves other objectives as SecAg deems necessary; and (d) are consistent with the objectives of this Act and other federal statutes. 16 U.S.C. § 472a(e)(1).

7. If SecAg selects oral auction as a bidding method for the sale of any national forest materials, SecAg must require all perspective bidders to submit written sealed qualifying bids which must be at least equal to or in excess of the appraised value of the materials in order for the bidder to participate in the oral bidding process. 16 U.S.C. § 472a (e)(2).

8. SecAg must monitor bidding patterns in the sale of national forest materials, and if SecAg has a reasonable belief that collusive bidding practices may be occurring, SecAg must report the instances of possible or suspected collusive bidding practices to the Attorney General with all supporting data, and may alter the bidding methods used within the affected area, and must take whatever action SecAg deems necessary to eliminate the practices within the affected area. 16 U.S.C. § 472a(e)(3).

9. All supervision, handling, and designation of forest product harvesting must be conducted by Forest Service personnel with no personal interest in the harvest. 16 U.S.C. § 472a(g).

10. To accomplish this section's objectives in situations of insect infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, SecAg must require purchasers of such timber to make monetary deposits, as part of the payment, to cover the Forest Service costs of the sale, the supervision of the harvest, and the cost of road construction. These deposits must be available until expended for designated purposes. 16 U.S.C. § 472a(h).

11. If a purchaser elects to have the Forest Service build required roads, the timber price must reflect the cost of that road, and the completion date for the road listed in the sale notice remains the same whether the Forest Service or purchaser builds the road. 16 U.S.C. § 472a(i).

12. Section 472a(i) does not apply to Forest Service land in Alaska. Id.

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. SecAg may sell, at appraised value, trees and other forest products on Forest Service lands to achieve the provisions set out in the Multiple-Use Sustained-Yield Act of 1960 and the Forest and Rangeland Renewable Resources Planning Act of 1974. 16 U.S.C. § 472a(a).

2. The period may be adjusted to provide additional time because of delays caused by the United States or by circumstances beyond control of purchaser. 16 U.S.C. § 472a(c).

3. If, after the advertised sale, there is no satisfactory bid or the successful bidder fails to complete the purchase, the sale may be offered and sold without further advertisement. 16 U.S.C. § 472a(d).

4. Any purchaser qualifying as a "small business concern" may elect to have the Forest Service build the road under timber sales which include a provision for purchaser credit for permanent road construction whose costs exceed $20,000. 16 U.S.C. § 472a(i).

5. To accomplish the road construction SecAg may draw from timber sales receipts an equivalent of an estimate of timber purchase credits and any other sums as may be approximated for road construction. 16 U.S.C. § 472a(i).

6. SecAg may dispose, by sale or otherwise, of forest products related to research and demonstration projects. 16 U.S.C. § 472a(f).

III. Mandatory Coordination

A. **Other Statutes**

1. All sale contracts shall be consistent with the principles of Title 16, Section 1604. 16 U.S.C. § 472a(l).

2. The ten-year limit on sales contracts may be extended if SecAg determines that better utilization, consistent with the Multiple-Use Sustained-Yield Act, will prevail. 16 U.S.C. § 472a(l).

3. Any deposits made shall not be considered as monies received from the national forests within the meaning of Title 16, §§ 500 and 501. 16 U.S.C. § 472a(h).

4. "Small business concerns" is defined by the Small Business Act, as amended. 16 U.S.C. § 472a(i).

5. The Timber Sale Act must achieve the policies of the Multiple-Use Sustained-Yield Act and the Forest and Rangeland Renewable Resources Planning Act of 1974. 16 U.S.C. § 472a(a).

B. **Groups** – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes – none

Note: The bidding methods and practices for timber sales were amended by Public Law 95-233, February 20, 1978.

Fish and Wildlife Coordination Act

72 Stat. 563; 16 U.S.C. §§ 661-666e, as amended.
August 12, 1958.

Summary

The Act attempts to provide for coordinated development of water-impoundment projects for the purpose of conserving and managing fish and wildlife within the project. The Department of Interior, Division of Fish and Wildlife, is the principal agency in the intergovernmental cooperative effort.

I. Requirements and/or Standards

A. **Planning**

1. Whenever the waters of any stream or other body of water are proposed to be impounded, diverted, or deepened by any federal agency or by any private body acting under a federal license or permit, the federal department or agency must first consult with the U.S. Fish and Wildlife Service with a view to the conservation of wildlife resources. 16 U.S.C. § 662(a).

2. All federal agencies which make a report on proposed water projects must include the reports and recommendations of the Secretary of Interior on the fish and wildlife aspects of the project. 16 U.S.C. § 662(b).

3. The coordination and consultation requirements do not apply to federal agencies creating impoundment of a surface water body of less than ten acres or to developments that are primarily land-oriented on federal lands. 16 U.S.C. § 662(h).

4. The coordination and consultation requirements do not apply to agency projects authorized before August 12, 1958, or to modifications to existing projects. 16 U.S.C. § 662c.

5. Cost of planning and construction measures for conservation purposes must be included as an integral part of the costs of the project. 16 U.S.C. § 662(d).

6. Any federal agency sending a report to Congress regarding the authorization of any new project must include a wildlife cost/benefit analysis. 16 U.S.C. § 662(c).

7. The use of waters, lands, or other interests by the federal agency for wildlife conservation purposes must be in accordance with general plans approved jointly by SecAg and the Secretary of Interior and the head of the appropriate state wildlife agency. 16 U.S.C. § 663(b).

B. **Management**

1. Any federal agency impounding, diverting, or deepening any water body must make adequate provisions for wildlife conservation consistent with the primary project purpose. 16 U.S.C. § 663(a).

2. Before a federal agency may acquire any property or seek any money from Congress for wildlife conservation or development purposes, the report and findings of the Secretary of Interior must be included in the request for appropriations. 16 U.S.C. § 663(c).

3. All lands that are acquired for wildlife protection purposes that are within the exterior boundaries of a national forest shall upon acquisition become a part of the national forest and be administered as part of that forest. 16 U.S.C. § 663(f).

4. Properties acquired for wildlife purposes in water projects shall not be transferred or exchanged if such transfer or exchange would defeat the initial purpose of their acquisition. 16 U.S.C. § 663(d).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. Monies needed to complete wildlife planning can be transferred from the appropriate federal agency to the Fish and Wildlife Service and are considered part of the overall project costs. 16 U.S.C. § 662(e).

B. **Management** - none

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. Whenever the waters of any stream or other body of water are proposed to be impounded, diverted, or deepened by any federal agency or by any private body acting under a federal license or permit, the federal department or agency must first consult with the U.S. Fish and Wildlife Service with a view to the conservation of wildlife resources. 16 U.S.C. § 662(a).

b. All federal agencies which make a report on proposed water projects must include the reports and recommendations of the Secretary of Interior on the fish and wildlife aspects of the project. 16 U.S.C. § 662(b).

c. Before a federal agency may acquire any property or seeks any money from Congress for wildlife conservation or development purposes, the report and findings of the Secretary of Interior must be included in the request for appropriations. 16 U.S.C. § 663(h).

2. States and Local Agencies

a. For all federal agency water impoundment projects over ten acres in size dealing with wildlife protection, the views of the state agency exercising administration over the wildlife resources of the state must be sought. 16 U.S.C. § 662.

3. Other - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The Secretary of Interior may provide assistance to and cooperate with federal agencies in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, as well as providing assistance to control losses of such wildlife from disease or other causes. 16 U.S.C. § 664.

2. State and Local Agencies - none

3. Other - none

V. Cross-references to Other Statutes - none

Sikes Act

88 Stat. 1369; 16 U.S.C. §§ 670g–670o, as amended. October 18, 1974.

Summary

SecAg is to implement programs to conserve and rehabilitate wildlife, fish, and game in cooperation with state agencies and according to a comprehensive plan. Primary emphasis is on habitat improvement for threatened or endangered species.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must develop, in consultation with state agencies responsible for the administration of the fish and game laws of the state, a comprehensive plan for programs for conservation and rehabilitation of wildlife, fish, and game on public lands under SecAg's jurisdiction, which plan must be consistent with overall land use and management plans for those lands. 16 U.S.C. §§ 670h(a)(1), (b).

2. In cooperation with the state agencies and in accordance with the comprehensive plan developed under the Act, SecAg must plan, develop, maintain, coordinate, and implement programs for the conservation and rehabilitation of wildlife, fish, and game, and those programs must include specific habitat improvement projects and related activities and adequate protection for threatened and endangered species. 16 U.S.C. §§ 670g(a), (b).

3. In addition to terms deemed necessary to carry out the Act's purposes, cooperative agreements under this Act must:

(a) specify the area covered;

(b) provide for fish and wildlife habitat improvements or modifications;

(c) provide for range rehabilitation where necessary;

(d) provide adequate protection for fish and wildlife that are threatened or endangered under 16 U.S.C. § 1533 or are so considered by the state agency;

(e) require the control of off-road vehicle traffic; and

(f) if issuance of public land area management stamps has been agreed to, contain the terms required by 16 U.S.C. § 670i(b), require keeping of accurate records and filing of annual reports concerning the fees for the stamps, and authorize access by federal authorities for audit purposes. 16 U.S.C. § 670h(3).

B. **Management**

1. SecAg must implement conservation and rehabilitation programs for public lands under his jurisdiction. 16 U.S.C. § 670g(b).

2. Hunting, fishing, and trapping permitted under the comprehensive plan must be conducted in accordance with state law, but the Act does not affect Indian tribes and their rights to fish, trap, and hunt which is otherwise regulated. 16 U.S.C. §§ 670h(b), (c)(4), and 670m.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may enter into cooperative agreements with a state agency with respect to a conservation and rehabilitation program to be implemented under the Act within that state, which agreement may be modified by mutual agreement of SecAg and the agency. 16 U.S.C. § 670h(c)(1)(B) and (c)(2).

B. **Management**

1. SecAg may manage the national forests for wildlife and fish and other purposes under the Multiple-Use Sustained-Yield Act of 1960 or other applicable authority, and this Act does not limit SecAg's authority under other statutes. 16 U.S.C. § 670h(c)(1).

2. SecAg may prescribe regulations to control the public use of land subject to a conservation and rehabilitation program. 16 U.S.C. § 670h(5).

3. SecAg may agree for a state agency to require public land management area stamps for persons to hunt, fish, or trap on public lands that are subject to a program under this Act, 16 U.S.C. § 670i(a), except in states where all federal lands comprise 60% or more of the state's total area. (In those states, SecAg and the state agency may agree on collection of a specified fee at the point of sale of regional licenses.) 16 U.S.C. § 670ℓ.

4. SecAg may designate employees and state officers, so authorized under a cooperative agreement, to enforce the hunting stamp requirements where the stamps are required, and the enforcing officers may carry firearms, execute and serve warrants or other process, and make arrests, searches, and seizures without warrants as provided by law. 16 U.S.C. § 670j(b)(1).

5. SecAg or persons SecAg designates may exercise the powers conferred by customs law on Department of Treasury officers regarding seizure and forfeiture of equipment and vessels in enforcing this Act. 16 U.S.C. §§ 670j(c) and (d).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. With reference to public land management area stamps for hunting, trapping, and fishing on lands subject to a conservation and rehabilitation program, the Secretaries of Agriculture and Interior (when both are implementing programs) must mutually agree on the proportion of the fees the state agency is to apply to the respective programs. 16 U.S.C. § 670i(b)(3).

2. State and Local Agencies

a. SecAg must obtain the cooperation of the appropriate state agencies in the planning, development, maintenance, and coordination of conservation and rehabilitation programs under this Act. 16 U.S.C. § 670g(a).

b. When SecAg and the state agency by cooperative agreement decide to issue public land management area stamps, they must mutually agree as to the amount of the fee, the minimum age for requiring a stamp, and the expiration date. 16 U.S.C. § 670i(b)(5).

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies

a. SecAg may enter into cooperative agreements with state agencies to implement the programs. 16 U.S.C. § 670h(c).

3. Other – none

V. Cross-references to Other Statutes

A. Nothing in the Act is to be construed as limiting SecAg's authority under the Multiple-Use Sustained-Yield Act of 1960, 16 U.S.C. §§ 528–531 (p. 39), to manage the national forests. 16 U.S.C. § 670h(c)(1).

B. The cooperative agreements between SecAg and the state agency must provide adequate protection for fish and wildlife designated as threatened or endangered under the Endangered Species Act, 16 U.S.C. § 1533 (p. 161). 16 U.S.C. § 670h(c)(3)(D).

C. Purchase of public land management area stamps is not a substitute for purchase of a migratory bird hunting stamp under 16 U.S.C. § 781a. 16 U.S.C. § 670i(4).

Note: The Sikes Act Amendment of 1978 authorized appropriations for the programs under the Act through the fiscal year ending September 30, 1981.

United States Mining Laws or General Mining Laws or Mining Laws of 1866 and 1872

14 Stat. 86; 17 Stat. 91; R.S. § 2318-2319; 41 Stat. 437; 30 U.S.C. §§ 21-47, as amended.
Act of July 4, 1866; Act of May 10, 1872; and February 25, 1920.

Summary

These sections are a codification of the earlier 1866 and 1872 Mining Laws. The laws provide which public lands that are valuable for their mineral rights are available for entry and mining claims. The Act provides for the establishment of claims, the extent and limitation on claims, the issuance of patents to mineral rights, and the determination of rights between adverse claimants. The Act also includes rights to placer minerals. The laws also provide for the use and regulation of surface lands where mineral deposits are located.

I. Requirements and/or Standards

A. **Planning**

1. All public lands which are valuable for minerals are reserved from sale unless expressly required by law. 30 U.S.C. § 21.

2. All valuable mineral deposits in federal lands and the lands on which they are located are free and open to occupation, exploration, and purchase by United States citizens (or persons having declared intent to be a citizen) by compliance with applicable miner's rules or customs that are not contrary to federal law. 30 U.S.C. § 22.

B. **Management**

1. Mining claims of hard minerals predating May 10, 1872, shall be governed by applicable local miner's laws, regulations, or customs in effect at the date of the location. 30 U.S.C. § 23.

2. After May 10, 1972, mining claims do not constitute a location until a vein or lode is discovered and cannot exceed 1500 feet in length along a vein or lode, or 300 feet on each side of the middle of the vein at the surface, and cannot be limited by any mining regulation to less than 25 feet at each side of the middle of the vein at the surface, and shall not be deemed a location until a vein or lode is discovered within the limits of the claim located. Id.

3. The locators of mining claims after May 10, 1872, on the public domain in compliance with the United States laws and local regulations consistent with those laws shall have the exclusive right of possession and enjoyment of the surface included within their locations. 30 U.S.C. § 26.

4. Owners of tunnels to develop lodes or veins or to discover minerals shall have the same right as if the lodes or veins were discovered from the surface as long as the work is done with reasonable diligence and without a time gap exceeding six months. 30 U.S.C. § 27.

5. Placer claims are also subject to entry and patent on the same basis and in a similar manner as the vein or lode claims except that placer claims are limited in acreage and must conform with the rectangular subdivisions of the public land surveys as nearly as practicable. 30 U.S.C. § 35.

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. The miners of each mining district may issue regulations consistent with federal, and with local, state, or territorial law concerning the location, the manner of recording, and the amount of work necessary to hold possession of a mining claim as long as the location is required to be distinctly marked on the ground, so its boundaries can be readily traced, and other requirements of section 28 are met. 30 U.S.C. § 28.

2. Patents may be obtained for any land claimed and located for valuable mineral deposits upon satisfaction of the stated procedures including, inter alia, posting public notice, marking the boundaries, filing a plat and field notes, and certifying $500 worth of labor or improvement expended on the claim, and upon a determination that no adverse claims exist. 30 U.S.C. § 29.

3. Adverse claims may be settled or adjudicated by a court of competent jurisdiction according to the procedures set forth in the Act after which a patent shall issue. 30 U.S.C. § 30.

4. Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of the vein or lode for mining or milling purposes, such land may be available for patent on the same basis as the vein or lode claim, but may not exceed five acres and must be paid for on the same basis as the superfices of the lode. 30 U.S.C. § 42.

5. Placer claimants also may seek to patent, on the same basis as locators, non-contiguous, non-mineral lands that are being used and occupied in developing the placer claim. Id.

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Entry, Access, and Egress

30 Stat. 36; 16 U.S.C. §§ 478 and 482.
June 4, 1897.

Summary

These sections provide special use authority for persons to prospect on national forests lands or to enter and create a mining claim on national forest lands. Section 478 reserves right of access and egress for actual settlers to let their lands on national forest land. Section 482 also restores lands that had been set aside for forest lands to public domain if they are determined to be better suited for mining or agricultural purposes than for forest purposes.

I. Requirements and/or Standards

A. **Planning**

1. Nothing in the Organic Act shall be construed to prohibit any person from entering forests for all lawful purposes including prospecting, locating, and developing the mineral resources. 16 U.S.C. § 478.

B. **Management**

1. Persons using forests for lawful purposes including mining must comply with rules and regulations applicable to the national forest. 16 U.S.C. § 478.

2. Any mineral lands previously in the national forest which have been returned to the public domain are subject to entry under existing mining laws, rules, and regulations. 16 U.S.C. § 478.

3. Lands withdrawn and returned to the public domain as more suitable for mining are subject to location and entry notwithstanding any provisions in the Organic Act. 16 U.S.C. §§ 473–78, 479–82, and 551. Id.

II. Authorizations (non-mandatory activities) - none

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Note: The mineral use authorized under sections 478 and 482 remains in effect to date. Development of mineral resources on federal lands has changed significantly since the Mining Laws of 1866 and 1872 (p. 95). This authority must be coordinated with the current United States Mining Laws (p. 95), the Mineral Lands Leasing Act (p. 99), the Mineral Leasing Act for Acquired Lands (p. 103), and the Minerals Disposal Act (p. 101).

Mineral Lands Leasing Act

41 Stat. 437; 30 U.S.C. §§ 181–287, as amended.
February 25, 1920.

Summary

This Act is the basic authority by which rights are acquired in designated minerals on federal lands. The deposits and the lands containing the deposits of coal, phosphate, sodium, potassium, oil, oil shale, native asphalt, solid and semi-solid bitumen, and bituminous rocks or gas must be disposed of according to this Act. The Act contains extensive provisions concerning which individual, associations, and corporations may acquire interest in the mineral deposits or lands containing them. It establishes procedures for competitive bidding and authorizes regulations concerning lands on which the mineral deposits are located. The basic mandate of the Act is to the Secretary of Interior and concerns all federal lands. The lands included within that authority are national forest lands other than those acquired under the Appalachian Forest Act. In addition to its general requirements concerning acquisition of interests, the Act requires applying specific provisions for rights to different types of minerals. Coal is covered in sections 201 through 214, oil and gas from 221 to 236, oil shale in 241, Alaskan oil in 251, sodium in sections 261 through 263, sulphur in sections 271 through 276, and potash in sections 281 through 287. The only provisions analyzed in detail are those that seem to apply directly to the Forest Service, especially § 185 concerning rights-of-way over federal lands, which was amended significantly in 1973.

I. Requirements and/or Standards

A. **Planning**

1. Deposits of coal, potash, sodium, potassium, oil, oil shale, native asphalt, solid and semi-solid bitumen, and bituminous rock or gas, and lands owned by the United States containing those deposits, including those in national forests (unless acquired under the Appalachian Forest Act or by acts subsequent to February 25, 1920), can only be disposed of according to the procedures provided under this Act to United States citizens or corporations, or, in the case of coal, oil, oil shale, or gas, to municipalities. 30 U.S.C. § 181.

2. The ownership and right to extract helium from all deposits or lands containing deposits leased pursuant to this Act are reserved in the United States according to rules and regulations that must be promulgated by the Secretary of Interior. Id.

3. This chapter also applies to mineral deposits reserved by the United States in lands that have been disposed of or may be disposed of under laws reserving the rights of the United States to develop the mineral interest. 30 U.S.C. § 182.

4. The Chief of the Forest Service must administer and enforce § 185, appropriate regulations, and the terms and conditions of rights-of-way or permits where they involved lands under the Forest Service jurisdiction. 30 U.S.C. § 185(c)(2).

5. The Chief of the Forest Service must issue regulations or impose stipulations that include (a) requirements for restoration, revegetation or curtailment of erosion of the surface of the land; (b) requirements to ensure that activities in connection with the rights-of-way or permits will not violate applicable air and water quality standards nor related facility siting standards established by or pursuant to law; (c) requirements designed to control or prevent damage to the environment, including damage to fish and wildlife habitat, damage to private or public property, hazards to public health or safety; and (d) requirements to protect the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. The regulations must apply to every right-of-way or permit granted under this section and may apply retroactively. 30 U.S.C. § 185(h)(2).

6. To minimize adverse environmental impacts and the proliferation of separate rights-of-way across federal lands, the use of rights-of-way in common must be required to the extent practicable. Each right-of-way or permit must reserve to the Chief of the Forest Service the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way or permit area granted pursuant to this section. Id.(p).

7. Every right-of-way across federal lands must be under and subject to the provisions, limitations, and conditions of § 185, and any applications under any other law prior to § 185 is considered an application under this section. Id.(q).

8. The appropriate agency head must report to the House and Senate committees annually on the administration of § 185 and on the safety and environmental requirements imposed pursuant thereto. Id.(w)(1).

9. The agency head must promulgate regulations delineating circumstances under which the applicant will be subject to liability to third parties or to strict liability for damages arising under a § 185 permit. Id.(x)(1)–(7).

10. Section 185 does not amend, repeal, modify, or change the requirements for an environmental impact statement or any other provision in NEPA (p. 147). Id.(h)(1).

B. **Management**

1. No coal leases or permits totalling more than 46,080 acres in any one state, may be held or controlled by an individual or entity. This limitation is subject to an additional acreage of 5,120 acres on terms set forth in the Act. 30 U.S.C. § 184.

2. Similar acreage limitations are imposed on sodium, phosphate, oil, and gas leased directly or indirectly from the Secretary of Interior. Id.

3. The width of a right-of-way must not exceed 50 feet plus the ground occupied by the pipe and its related facilities unless the Chief of the Forest Service finds and records the reason for the findings that a wider right-of-way is necessary for operation and maintenance after construction or to protect the environment or public safety. 30 U.S.C. § 185(d).

4. Rights-of-way or permits under § 185 must be subject to regulations promulgated under that section and subject to terms and conditions that the Chief may prescribe regarding extent, duration, survey, location, construction, operation, maintenance, use, and termination. 30 U.S.C. § 185(f).

5. The Chief of the Forest Service must impose requirements for the operation of the pipeline and related facilities in a manner that will protect the safety of workers and protect the public from sudden ruptures or slow deterioration of the pipeline. Id. (g).

6. Before granting a § 185 right-of-way or permit for a new project that may significantly affect the environment, the Chief of the Forest Service must require the applicant to submit a plan of construction, operation, and rehabilitation for that right-of-way or permit that complies with § 185. Id.(h)(2).

7. The Chief of the Forest Service must require that the applicant disclose its participants and other required data if the applicant is a business entity. Id.(i).

8. The Chief of the Forest Service must be satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the project for

which the right-of-way or permit is requested before granting or renewing a right-of-way or permit. Id.(j).

9. The Chief of the Forest Service must by regulation establish procedures including public hearings where appropriate to give federal, state, and local government agencies and the public adequate notice and an opportunity to comment upon the right-of-way application field under § 185. Id.(k).

10. The applicant must reimburse the government for the cost of processing the application and monitoring construction, maintenance, operation, and termination of a right-of-way or permit and also must pay, in advance, the fair market value of the right-of-way or permit as determined by the Chief of the Forest Service. Id.(l).

11. Any lease or permit for the exploration, development, or utilization of mineral deposits, other than those covered by the Materials Disposal Act (p. 101) or those on lands added to the Shasta National Forest, on lands administered by SecAg must have SecAg's prior consent and be subject to conditions SecAg prescribes to ensure the adequate utilization of the lands for the purposes set forth in Public Law 449. 30 U.S.C. § 192c.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The Secretary of Interior may grant rights-of-way through public lands including forest reserves of the United States for the transportation of oil or natural gas to qualified applicants for the ground actually occupied and up to 25 feet on each side of the pipeline. 30 U.S.C. § 185.

2. The Chief of the Forest Service may grant rights-of-way through any federal lands under his jurisdiction for pipelines for the transportation of oil and natural gas, synthetic liquid or gaseous fuels, or any refined product, provided that the applicant is qualified under § 181. 30 U.S.C. § 185(a) and (c)(1).

3. If the lands involved over which a right-of-way is sought are under the jurisdiction of "the Secretary of Interior and the Forest Service or other federal agency," the Secretary of Interior may issue the permit or right-of-way after consulting with the other agencies involved, and that authority may be exercised through inter-agency agreements. 30 U.S.C. § 185(c).

B. **Management**

1. A § 185 permit or right-of-way may be granted for a reasonable term considering the cost of the facility, its useful life, and any public purpose it serves, not to exceed 30 years. Id.(n).

2. A permit or right-of-way may be renewed if the project is in commercial operation and being operated and maintained pursuant to this section. Id.

3. Rights-of-way may be abandoned or suspended according to the procedures set forth in the Act. Id.(o)(1)–(3).

4. The right-of-way may be supplemented by a temporary permit for the use of federal lands in the vicinity of the pipeline that the Chief of the Forest Service finds necessary in connection with the construction, operation, maintenance, or termination of the pipeline or to protect the natural environment or public safety. Id.(e).

5. The Chief of the Forest Service may require the holder of a right-of-way or permit to post a bond in a form satisfactory to the Chief to secure obligations and conditions imposed by the right-of-way or permit under this section. Id.(m).

6. Rights-of-way or permits for oil or gas pipelines granted under other provisions of the law may be ratified or confirmed by the Chief if modified by mutual agreement to comply with § 185, and the ratification or confirmation shall not be considered an action requiring a NEPA impact statement. Id.(t).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal, State, and Local Agencies

a. The Secretary of Interior must consult other federal or state agencies to review the need for a national system of transportation and utility corridors across federal lands and report to the Congress and President by July 1, 1975. Id.(f).

2. Other – none

IV. Authorized Coordination – none

V. Cross-reference to Other Statutes – none

Note: This Act has been significantly modified with respect to responsibilities of SecAg on Forest Service land by the Federal Coal Leasing Amendments Act of 1975 (p. 111) and the FLPMA (p. 65) and should be coordinated with those Acts. In addition, the requirements of this Act should be coordinated with the Materials Disposal Act (p. 101) and the Mineral Leasing Act for Acquired Lands (p. 103) to ascertain the full authority of SecAg for regulating mineral deposits on national forest lands.

Materials Disposal Act

61 Stat. 681; 30 U.S.C. §§ 601-604 as amended by 69 Stat. 368 adding 30 U.S.C. §§ 611-615.
July 31, 1947; and July 23, 1955.

Summary

The 1947 Act authorizes the Secretary of Interior to dispose of common varieties of mineral deposits and vegetative deposits, including timber, on public land. The Act has enforced the conditions under which that authority may be exercised. The 1953 Amendment clarified that the disposal of the common varieties of mineral deposits were not subject to the general mining laws. It also authorized use, removal, and severance of timber in conjunction with mineral claims. Provisions are included for unpatented mining claims and loss of rights. The amendment more clearly imposes responsibilities on SecAg.

I. Requirements and/or Standards

A. **Planning**

1. The Act must be carried out by SecAg when lands involved are national forest lands, forestry incentives program lands, or lands withdrawn for any other function of USDA. 30 U.S.C. § 601.

2. No deposits of common varieties of sandstone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be considered a valuable mineral deposit within the meaning of the mining laws of the United States to give effect to any mining claim of the deposit. 30 U.S.C. § 611.

B. **Management**

1. Disposition of vegetative and mineral material must be according to the procedures in this Act and upon adequate compensation as determined by SecAg. 30 U.S.C. § 601.

2. Materials authorized for disposition under this Act must be disposed of to the highest responsible qualified bidder after formal advertisement and other public notice that SecAg deems appropriate. 30 U.S.C. § 602.

3. Unpatented mining claims can only be used for prospecting, mining, or processing operations and other reasonably incidental uses. 30 U.S.C. § 612.

4. Unpatented mining claims carry with them rights to reasonable use of the surface and surface resources, including timber, that are necessary for developing the mining claim. 30 U.S.C. § 612.

5. Unpatented mining claims are subject to the rights of the United States to manage and dispose of surface vegetative resources and to manage other surface resources, except mineral deposits subject to the United States mining laws. 30 U.S.C. § 612(b).

6. Unpatented mining claims are subject to the rights of the United States, its permittees, or its licensees to the reasonable use of the surface, including access to adjacent lands, provided that that use does not endanger or materially interfere with prospecting, mining, or processing operations or reasonably incidental uses by the claimant. Id.

7. If the locator requires more timber than is available for the unpatented claim and timber on the claim has been disposed of by the United States subsequent to the claim, then the locator must receive, free of charge, equivalent timber from the nearest timber administered by the disposing agency that is ready for harvesting under the rules and regulations of that agency and substantially equivalent in kind and quantity to that disposed of. Id.

8. Removal by a locator of timber incidental to the needs for the mining claim must be in accordance with sound principles of forestry management. Id.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may issue necessary rules and regulations for disposing of mineral materials and vegetative materials on public lands and lands subject to SecAg's jurisdiction unless the disposition is authorized by other laws, is prohibited by other laws, or is detrimental to the public interest. 30 U.S.C. § 601.

2. SecAg may permit federal, state, or local governmental units to take materials or resources subject to this Act for other than commercial or industrial uses or resale. 30 U.S.C. § 601.

3. SecAg may dispose of materials under this Act by negotiated contract rather than by competitive bidding if (1) the contract is for the sale of less than 250,000 board feet of timber, (2) if the contract is for the disposal of materials used in conjunction with a public works improvement program of any governmental unit and public exigency does not permit the delay incidental to advertising, or (3) the contract is for the disposal of property for which it is impracticable to obtain competitive bids. 30 U.S.C. § 602(a).

B. **Management**

1. Monies received from disposal of materials by SecAg under this Act must be disposed of in the same manner as monies received from the administration of the lands from which the disposal of materials is made. 30 U.S.C. § 603.

2. SecAg may file a request for publication of notice to mining claimants for determination of surface rights with respect to surface resources. 30 U.S.C. § 613.

3. The filing for publication by SecAg must include affidavits and satisfy other procedural requirements in § 613. 30 U.S.C. § 613.

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. The general mining laws of the United States are referred to in 30 U.S.C. § 612.

Mineral Leasing Act for Acquired Lands

61 Stat. 913; 30 U.S.C. §§ 351-359.
August 7, 1947.

Summary

This Act provides the means by which interests can be obtained in mineral deposits on acquired lands of the federal government. The Act vests in the Secretary of Interior the authority to grant any interests in mineral deposits on the acquired lands subject to the approval of the agency administering the acquired land. The parts analyzed below are only those that might apply to SecAg or the Forest Service.

I. Requirements and/or Standards

A. **Planning**

1. Acquired lands subject to the Act include title or interest in lands obtained under the Weeks Law (p. 9) or Exchange Act (p. 11). 30 U.S.C. § 351.

2. If the Secretary of Interior requests information on the status of title to mineral deposits on acquired land, SecAg must provide the legal description of those lands, pertinent abstract and title papers, and other documents concerning the status of title to the Secretary of Interior. 30 U.S.C. § 356.

B. **Management**

1. The Secretary of Interior must obtain the consent of SecAg before leasing any interest in mineral deposits on acquired lands under the jurisdiction of SecAg. 30 U.S.C. § 352.

2. This Act does not affect any existing statutes authorizing or requiring the sale of acquired lands or authorize any agency to reserve the minerals in the sale of acquired lands, and any sale so made must be subject to any existing lease. 30 U.S.C. § 353.

3. Receipts from leases issued pursuant to the Act must be deposited into the accounts in the Treasury to be used for the same purposes prescribed for receipts from the lands affected by the lease. 30 U.S.C. § 355.

4. Abstracts, title papers, and other documents furnished to the Secretary of Interior under § 357 must be recorded promptly by the BLM, and the original of those documents must be returned promptly to the agency from which they were received. 30 U.S.C. § 357.

5. This Act does not affect interests in acquired lands obtained prior to this Act. 30 U.S.C. § 358.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. Unless acquired lands were obtained for mineral development, the Secretary of Interior may lease all deposits of coal, phosphates, oil, oil shale, gas, sodium, potassium, and sulphur on acquired lands under the conditions and subject to the provisions of the mineral leasing laws. 30 U.S.C. § 352.

2. The Secretary of Interior may prescribe whatever rules and regulations are necessary to implement this Act, but they must be the same as the Mineral Leasing Act rules and regulations to the extent it is applicable. 30 U.S.C. § 359.

B. **Management**

1. SecAg may impose whatever conditions are necessary in consenting to any lease on acquired lands to insure that they are adequately utilized for the primary purpose for which they were acquired or are being administered. 30 U.S.C. § 352.

III. Mandatory Coordination

A. **Other Statutes**

1. Leases pursuant to this Act must be in accordance with and on the same conditions as those that are applicable under the mineral leasing laws. 30 U.S.C. § 352.

2. This Act must be coordinated with statutes authorizing acquired lands, specifically 16 U.S.C. §§ 480, 500, 513-19, 521, 552, and 563. 30 U.S.C. § et seq.

B. **Groups**

1. Federal Agencies

a. The Secretary of Interior must cooperate with other federal agencies in obtaining title information concerning mineral deposits on acquired lands. 30 U.S.C. § 356.

2. State and Local Agencies

a. This Act does not affect the power of states to impose local taxes or exercise any other rights which they have with respect to property covered by the Act. 30 U.S.C. § 357.

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. Mineral leasing laws in § 351 (p. 99).

B. The Surplus Property Act of 1944 in § 352.

C. The sulphur leasing provisions in 30 U.S.C. §§ 271-276 in § 352.

D. The outer continental shelf leasing authority in 43 U.S.C. §§ 1331-1337 in § 352.

E. 32 Stat. 252 and 41 Stat. 813 in § 353.

Note: Section 352 was extensively amended by the Federal Coal Leasing Amendments Act of 1975 (p. 111) which must be coordinated with this Act.

Multiple Mineral Development of the Same Tracts

68 Stat. 708; 30 U.S.C. §§ 521–531.
August 13, 1954.

Summary

This Act establishes preferences and provides for the effectiveness of mining claims on the same lands under the general mining laws and under the Mineral Leasing Act. The Act provides the basis by which the respective claims are to be worked, specifically requiring that work under one claim does not interfere with the other. The Act expressly authorizes multiple mining uses under the Mining Laws and the Mineral Leasing Act. Moreover it contains provisions for the determination of unpatented mining claims on lands subject to the Act. This Act encompasses mineral development of uranium and helium deposits and opens helium lands to claims under the mining laws and the mineral leasing laws. The Act states that nothing in its terms should be construed as waiving, amending, or repealing the requirement of approval of any agency head to the development of a claim under the mining laws. Because this Act is designed to authorize development of multiple mining claims on the same tract of land and is of general application to those lands under any federal agency's jurisdiction, it has no direct mandate or effect on the general management responsibilities of the agency with respect to the land. Hence, it is not analyzed in detail.

Mining Claims Rights Restoration Act of 1955

69 Stat. 682; 30 U.S.C. §§ 621–625, as amended.
August 11, 1955.

Summary

This Act provides the authority for establishing claims to mineral deposits on lands previously or in the future reserved for power development. The mining claims may be established under either the mining laws or the mineral leasing laws and apply to all public lands previously withdrawn or reserved for power development or power sites. Placer mine claims are also permitted but are subject to regulations by the Secretary of Interior. The Act is limited to reservations of public domain lands for power development and for no other purposes and does not affect reservations for any other purposes. Under the Act the claims must be established at the risk and expense of the claimant, and any harm or damage to the claimant from using the land for power purposes is non-compensable unless due to negligence. The entry into land reserved for power development or power sites is limited to the purposes for locating and patent of mining claims and for mining, development, benefication, removal, and utilization of the mineral resources of those lands. Because this statute applies its directives only to the Secretary of Interior, it has not been analyzed in depth. The Act provides the procedures and times for filing and asserting claims on land affected by the statutes.

Conveyance to Occupants of Unpatented Mining Claims

76 Stat. 1127; 30 U.S.C. §§ 701–709.
October 23, 1962.

Summary

This Act provides authority for the Secretary of Interior to dispose of small acreage to claimants whose claims have been denied or declared invalid by the Secretary of Interior under applicable mining statutes. The Secretary of Interior is authorized, when the conditions in the Act have been satisfied by the claimant, to grant interests including fee simple estates in tracts up to five acres of the invalid claim. The conveyances are limited to tracts where the claimant has used them for the purpose of a principal residence and has paid fair market value, but not less than $5 an acre for the conveyance. The Secretary must reserve all mineral rights in the government in any conveyance under the Act, and the mineral rights so reserved are subject to development under the mineral leasing laws. SecAg is only involved if the Secretary of Interior uses the authority granted under the Act to delegate the responsibilities and powers to the head of another agency with respect to land under the jurisdiction of that department or agency.

Federal Coal Leasing Amendments Act of 1975

90 Stat. 1083; 30 U.S.C. §§ 201, 202a, 208–1, and 208–2. August 4, 1976.

Summary

These Amendments were designed to regulate and limit the number of leases on land subject to the control of lessees under the Mineral Leasing Act and subject that control to the antitrust laws. In addition it amended provisions concerning rights-of-way over federal lands and the authority of agencies to grant those. The new sections to the Act related to coal leases. They authorized the Secretary of Interior and SecAg with respect to national forest lands to grant coal leases on a competitive basis but for no less than the fair market value of the leases. The Amendments also require that those leases on national forest land be in accordance with other uses of the land leases. The added provisions also regulate the conditions for amendment to existing leases and adding contiguous tracts to them. The new provisions also authorize exploratory programs to determine known recoverable acreage for coal development. A report to Congress and a report to the Attorney General concerning competition in the coal industry are required. The Act provides also that "nothing in this Act or the Mineral Lands Leasing Act and the Mineral Leasing Act for Acquired Lands which are amended by this Act shall be construed as authorizing coal mining on any area of the national park system, the national wildlife refuge system, the national wilderness preservation system, the national system of trails, and the wild and scenic rivers, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act [16 U.S.C. § 1276(a)]." Section 16 of Public Law 94–377.

I. Requirements and/or Standards

A. **Planning**

1. Coal leases or permits, whether held by a person or business entity, must not exceed an aggregate of more than 46,080 acres in any state and an aggregate of 100,000 acres in the United States after the date of enactment; however, anyone holding an excess on the date of enactment shall not be required to relinquish any leases but may not acquire any more until the aggregate is reduced below 100,000 acres. 30 U.S.C. § 184.

2. At least 50% of the total acreage leased by the Secretary of Interior in any year must be leased under a system of deferred bonus payment, and a reasonable number of leasing tracts must be reserved and offered for lease to public bodies, including federal agencies, rural electric cooperatives, and non-profit corporations, to mine coal for the use of those entities in providing energy to their members or customers. 30 U.S.C. § 201(a).

3. Fair market value of the coal must be determined by the Secretary in light of opportunity for, and consideration of, public comment on the fair market value. 30 U.S.C. § 201(a).

4. No lease sale shall be held unless the lands containing the coal deposits are included in a comprehensive land use plan, and the sale is compatible with the plan. Id.

5. If a comprehensive land use plan has not been previously prepared, SecAg must prepare one for lands in the National Forest System that the Secretary of Interior informs SecAg have substantial development interest in coal leasing. Id.

6. SecAg's comprehensive land use plan must consider the proposed coal development in the lands. Id.

7. Land use plans must be prepared for the National Forest System unless the non-federal interest in the surface or the coal resources are insufficient to justify the preparation cost of a federal comprehensive plan, in which case lease sales may be held based on a state land use plan by the state in which the coal deposits are located or on a Department of Interior land use analysis. 30 U.S.C. § 201(a)(3)(A)(i).

8. Leases of lands under the jurisdiction of an agency other than the Department of Interior can only be issued upon the consent of the other agency on conditions it prescribes with respect to the use and protection of the non-mineral interest of those lands. 30 U.S.C. § 201(3)(A)(iii).

B. **Management**

1. The Secretary of Interior cannot accept any bid that is below the fair market value of the coal as determined by the Secretary. 30 U.S.C. § 201(a).

2. The Secretary of Interior must not issue a lease to any person or business entity that has held the lease for coal in federal lands for a period of at least ten years during which no production resulted. Id.

3. The land use plans of the National Forest System prepared by SecAg must include an assessment of the amount of coal deposit in the land and identification of the amount of coal recoverable by deep mining operations and the amount recoverable by surface mining operations. 30 U.S.C. § 201(a)(3)(A)(iii).

4. Before issuing any lease the Secretary must consider the effects of the mining of the proposed lease on the community or area, including the environment, agriculture and economic activities, and public services and must evaluate and compare the effects of recovering coal by deep mining, surface mining, or other method to determine which will achieve the maximum economic recovery of coal within the proposed leasing tract. The evaluation and comparison must be in writing but shall not prohibit the issuance of a lease. 30 U.S.C. § 201(a)(3)(C).

5. No mining operating plan shall be approved that does not achieve the maximum economic recovery of the coal within the tract. Id.

6. A lease sale must be preceded by public hearings in the area. Id.

7. Lease sales must be preceded by hearings and notice of the offering at least three weeks in advance according to regulations of the Secretary. Id.

8. The Secretary of Interior may prescribe regulations for issuing exploratory licenses to any person, and the licensee must comply with all rules and regulations of the federal agency having jurisdiction over the land subject to the license. 30 U.S.C. § 201(b)(2).

9. The license for exploratory activities on the land other than Department of Interior lands must be done with the consent, and subject to the rules, of the agency with respect to use and protection of the non-mineral interest in those lands. 30 U.S.C. § 201(b)(2).

10. SecAg must prescribe terms and conditions for leasing additional acreage. 30 U.S.C. § 203.

11. The Secretary of Interior must conduct a comprehensive exploratory program to obtain sufficient data and information to evaluate the extent, location, and potential for developing known coal resources within coal lands subject to this chapter. 30 U.S.C. § 208–1.

12. The program must be designed to obtain resource information to determine whether commercial quantities of the coal are present and the amount of coal recoverable by deep mining or surface mining operations to provide a basis for a comprehensive land use plan and other purposes. 30 U.S.C. § 208–1.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. Lands subject to this Act which have been classified for coal leasing may be divided by Secretary of Interior into leasing tracts in a size that Secretary of Interior determines appropriate and in the public interest to permit mining of all the coal that can be economically extracted from the tract. 30 U.S.C. § 201(a).

2. The Secretary of Interior may offer the leasing tracts on Secretary of Interior's own motion or upon request of a qualified applicant and must award leases on competitive bidding. Id.

B. **Management**

1. The Secretary of Interior, after determining the maximum economic recovery of coal deposits will be served, may approve consolidation of leases into a logical mining unit after a public hearing if it is requested. 30 U.S.C. § 202(a).

2. Any holder of a coal lease under this chapter may, with the approval and upon a finding by the Secretary of Interior that it is in the interests of the United States, secure modification of the original lease to include additional lands or coal deposits contiguous to those embraced in the lease not to exceed 160 acres or add acreage larger than that in the original lease. 30 U.S.C. § 203.

III. Mandatory Coordination

A. **Other Statutes**

1. Each coal lease must require compliance with the Clean Water Act (p. 153) and the Clean Air Act (p. 149). 30 U.S.C. § 201(a)(3)(E).

B. **Groups**

1. Federal Agencies

a. All federal departments and agencies must provide the Secretary of Interior with information and data they deem necessary to implement the exploratory program. 30 U.S.C. § 208-1(e).

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The Act amended section 352 to remove the exception for military or naval purposes and authorized leasing coal or lignite on those lands subject to the concurrence of the Secretary of Defense. 30 U.S.C. § 352.

2. State and Local Agencies - none

3. Other - none

V. Cross-references to Other Statutes - none

National Forest Service Roads and Trails System Act

78 Stat. 1089; 16 U.S.C. §§ 532–38, as amended. October 13, 1964.

Summary

The Act provides for the development of an adequate system of roads and trails on national forest lands in order to enhance the value of those lands according to the principles of multiple-use and sustained-yield. The Act defines the methods of financing the National Forest Transportation System. The Act also provides for the purchase of lands for these purposes and for the division of costs among users.

I. Requirements and/or Standards

A. **Planning**

1. By regulation the Forest Service requires proposed road plans be developed for each forest. 36 C.F.R. § 212.1 et seq.

2. Logging operators must obtain approval from the Forest Service prior to the construction of any road. 36 C.F.R. § 251.14.

3. All road plans must be prepared in accordance with procedures prescribed by the Chief. 36 C.F.R. § 213.3.

4. A work program for each transportation segment must be prepared including financial agreements. 36 C.F.R. §§ 213.4–213.5.

B. **Management**

1. Instruments affecting permanent interests in land used for road purposes must be recorded in the county where the land is located. 16 U.S.C. § 536.

2. The unused portions of deposits given for the construction or maintenance of roads by users must be transferred to miscellaneous receipts or refunded. 16 U.S.C. § 537.

3. The purchaser of national forest timber or other products shall not bear the costs of a road built to a higher specification than needed by the purchaser. 16 U.S.C. § 535.

4. The Chief must obtain necessary access to lands for efficient management for multiple use purposes. 36 C.F.R. §§ 212.8–212.9.

5. If SecAg determines that an easement has been abandoned, the owner of that easement must be notified and, if requested, given a hearing within 60 days. 16 U.S.C. § 534.

6. Funds for transportation facilities must be allocated according to need. 36 C.F.R. § 212.2.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. Forest development roads can be part of a state, county, or other political subdivision. 36 C.F.R. § 212.8.

B. **Management**

1. SecAg may provide for the acquisition, construction, and maintenance of roads necessary to harvest timber. 16 U.S.C. § 535.

2. SecAg is authorized to develop roads that permit maximum economy in timber production while simultaneously protecting other resource use in the forest. 16 U.S.C. § 535.

3. Forest development roads may be financed by (a) appropriations, (b) requirements on purchasers, (c) cooperative financing with public agencies, private agencies, or individuals, or (d) any combination of (a), (b), or (c). 16 U.S.C. § 535.

4. SecAg may also allow unused purchaser credit for road construction to be transferred from one timber sale to another within the same national forest. 16 U.S.C. § 535.

5. SecAg may grant permanent or temporary easements for road rights-of-way. 16 U.S.C. § 533.

6. All easements may be terminated by condemnation or abandonment. 16 U.S.C. § 534.

7. SecAg may require the users of a road to maintain or reconstruct that road, or the Secretary may require the users to deposit sufficient funds for this purpose. 16 U.S.C. § 537.

8. User fees for any road may be placed in a fund for later payments to the government's grantor, if the agreement between the government and the grantor so provides. 16 U.S.C. § 538.

9. The Forest Service may issue a free special use permit if the use is beneficial in the administration of national forests, including the construction of roads. 36 C.F.R. § 251.4.

10. The Chief may require road users to maintain or reconstruct roads or make an in lieu payment to achieve those purposes. 36 C.F.R. § 212.7.

11. The Chief may give permission to construct and use roads, as well as assign easements, when it is beneficial or if similar values are being conveyed. 36 C.F.R. § 212.10.

12. The Chief can require the development of roads and trails which maximize economic development, but he must always consider resources protection. 36 C.F.R. § 212.12.

13. Roads may be financed through the use of appropriated funds, by imposing costs on users or by cooperative financing at the discretion of the Chief. 36 C.F.R. § 212.12.

14. The Forest Service can share costs with other political subdivisions or road users. 36 C.F.R. § 212.11.

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Copies of all instruments affecting interests in land reserved from the public domain must be sent to the Secretary of Interior.

2. State and Local Agencies – none

3. Other

a. The public is invited to participate in the determination of restrictions on the use of roads or trails. 36 C.F.R. § 213.1.

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none

2. State and Local Agencies

a. Financing of roads may be accomplished by cooperative financing with other public agencies, private agencies, or individuals. 16 U.S.C. § 535.

3. Other – none

V. Cross-reference to Other Statutes

A. Roads must be planned and managed in accordance with the principles of the Multiple-Use Sustained-Yield Act of 1960 (p. 39). 16 U.S.C. § 535.

Note: The National Forest Transportation System Act under RPA and NFMA diminishes the Forest Service reliance on timber purchasers financing roads in the National Forest Transportation System. 16 U.S.C. § 1608 (p. 61).

The enforcement functions of the USDA concerning compliance with §§ 532–38 by the Alaska Natural Gas Transportation System on national forest lands were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, by §§ 102(f) and 203(a), Reorganization Plan No. 1 of 1979. The transfer is effective from July 1, 1979, until one year after the date of the initial operation of that system.

National Trails System Act of 1968

82 Stat. 919 as amended by 92 Stat. 159; 92 Stat. 3512; and 93 Stat. 666. 16 U.S.C. §§ 1241–49, as amended.
October 2, 1968; March 1, 1978; November 10, 1978; and October 12, 1979.

Summary

The Act provides for the creation of a national trails system to provide for the ever-increasing demand for access to and travel within outdoor areas and enjoyment of scenic and historic resources. As amended, the Act creates three types of trails, national recreation trails, national scenic trails, and national historic trails. National scenic trails and national historic trails can only be established by an Act of Congress.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must establish an advisory council for the Pacific Crest National Scenic Trail that must include a member of each federal agency or department through whose lands the trail passes, and SecAg must designate one member of the Council to be that chairperson. 16 U.S.C. § 1244(d).

2. SecAg must consult with the council from time to time with respect to rights-of-way, markers, and administration of the trail. Id.

3. SecAg and the Forest Service, administering lands through which proposed national scenic or historic trails might pass, must, after congressional authorization, make studies concerning the desirability and feasibility of designating these proposed trails as national scenic or historic trails. Those feasibility studies must be submitted to Congress with recommendations on the suitability of trail designation. The studies shall be printed as a House or Senate document. 16 U.S.C. § 1244(b).

4. The suitability study must include the following information on each of the 23 specified routes: (a) the proposed route including maps and illustrations; (b) any adjacent areas to be utilized for scenic, historic, natural, cultural, or developmental purposes; (c) the characteristics which make the route worthy of national scenic or historic trail designation, which for a proposed national historic trail must include the National Park Service Advisory Board's recommendation of national historic significance based on the Historic Sites Act; (d) the current status of land ownership and land use; (e) any estimated acquisition costs; (f) the plans and costs of maintenance and operation; (g) the proposed federal administrative agency (if the trail is wholly or substantially within a national forest, the administrative agency shall be the USDA, (h) the extent of reasonably projected state, local, private participation in acquiring necessary lands; (i) the relative uses of the lands involved, including projections of visitor days and economic, social, and related benefits and impacts; and for a proposed national historic trail, the archeological features and settings. Id.

5. To qualify as a national historic trail, the proposed route must (a) be established by historic use and have historic significance; (b) be of national significance to a broad facet of American history such as commerce, migration, settlements, military campaigns, or native American history; and (c) have significant potential for public recreational use or interest. Id.

6. National Trails System selection must harmonize and complement existing multiple-use plans. 16 U.S.C. § 1246(a).

7. SecAg must prohibit the use of motor vehicles, except for emergencies, on national scenic trails. 16 U.S.C. § 1246(c).

B. **Management**

1. SecAg and the Secretary of Interior must establish a uniform marker for the national trails system in consultation with the Secretary of Interior and other public and private organizations. 16 U.S.C. § 1242.

2. SecAg must select the rights-of-way for national scenic and historic trails. 16 U.S.C. § 1246(a).

3. SecAg must publish notice of right-of-way selections for national scenic or historic trails in the Federal Register. Id.

4. SecAg must select rights-of-way that minimize the adverse effects on adjacent landowners and users. Id.

5. SecAg must by agreement negotiate rights-of-way over federal lands with the appropriate federal agency. 16 U.S.C. § 1246.

6. SecAg must provide for the development and maintenance of national recreation, scenic, or historic trails. 16 U.S.C. § 1246(h).

7. SecAg must administer the Pacific Crest National Scenic Trail in consultation with the Secretary of Interior. 16 U.S.C. § 1244(a).

8. SecAg must administer the Continental Divide National Scenic Trail in consultation with the Secretary of Interior. Id.

9. SecAg must permit use of motorized vehicles on the Continental Divide National Scenic Trail by appropriate regulations. Id.

10. SecAg must promulgate regulations to protect national trails under USDA jurisdiction. 16 U.S.C. § 1246(i).

11. Within two fiscal years after the designation of a national scenic trail and of November 10, 1980 for the Pacific Crest National Scenic Trail, SecAg must prepare a comprehensive plan for the acquisition, management, development, and use of the trail under USDA jurisdiction, including management objectives and practices, an acquisition and protection plan, and development goals and costs. 16 U.S.C. § 1244(e).

12. Within two fiscal years after designation of a national historic trail, SecAg must prepare a comprehensive plan for the use and management of historic trails under USDA jurisdiction, including management objectives and practices, details of anticipated cooperative agreements, and the means to be used to accomplish the § 1246(c) marking requirements. 16 U.S.C. § 1244(f).

13. No land or site located along a designated national historic trail or the Continental Divide National Scenic Trail shall be subject to the provisions of 49 U.S.C. § 1653(f) unless the land or site has historical significance under appropriate historical site criteria such as those used for inclusion in the National Register of Historic Places. 16 U.S.C. § 1246(g).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg can establish, designate, and mark as components of the national trails system any connecting or side trail within a national forest which provides additional points of access. 16 U.S.C. § 1245.

2. SecAg, with the consent of state or local governments, can add side trails which provide additional points of access to national trails. 16 U.S.C. § 1245.

B. **Management**

1. SecAg may designate national recreation trails with the consent of the agency (Forest Service) having jurisdiction over the lands upon which the national recreation trail is located. 16 U.S.C. § 1243.

2. The Forest Service may acquire lands within their boundaries for the right-of-way for trail purposes by means of written cooperative agreement, donation, or purchase by donated or appropriated funds or exchange. 16 U.S.C. § 1246(d).

3. SecAg may relocate segments of national scenic or national historic trail rights-of-way if SecAg deems it necessary to preserve the purposes for which the trail was created or if necessary to promote a sound land management program consistent with multiple use purposes. A substantial relocation of a right-of-way, however, must be done by Act of Congress. 16 U.S.C. § 1246(b).

4. SecAg, on lands outside the boundaries of federal property, may make cooperative agreements to acquire trail rights-of-way or purchase private property if necessary for the proposed trail. 16 U.S.C. § 1246(e).

5. SecAg may exchange federal property under his jurisdiction for non-federal property or may utilize condemnation proceedings for purposes of acquiring rights-of-way for national trails. 16 U.S.C. § 1246.

6. SecAg and the agency administering the trail may issue regulations governing the use and management of national trails after consultation with affected state and local governments. 16 U.S.C. § 1246(i).

7. SecAg may grant easements and rights-of-way along the national trails system within the national forest system if related to the policy and purposes of the Act. 16 U.S.C. § 1248(a).

8. SecAg may exchange property along the trail for any federally owned property under USDA jurisdiction if the values of the property are approximately equal, or if not, cash equilization payments may be used. 16 U.S.C. § 1246 and 43 C.F.R. §§ 2270 et seq.

9. SecAg, after consulting with affected federal, state, and local agencies, may promulgate regulations governing the use, protection, and management of any national trail. 16 U.S.C. § 1246(i).

10. SecAg may certify other lands as protected segments of national historic trails upon application of a state if the lands otherwise meet the § 1244 national historic trail criteria and will be administered by the state or other governmental units without expense to the federal government. 16 U.S.C. § 1243(c).

11. SecAg may use condemnation proceedings to acquire private lands or interests in them which were not obtained through negotiation and are necessary for the national trail right-of-way. The condemnation authority is limited to an average of 125 acres per mile and, for national historic trails, to those areas indicated as high potential route segments or high potential historic sites in the feasibility study or comprehensive plan. 16 U.S.C. § 1246(g).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Federal agencies having control over roadways or other properties which may be suitable for inclusion in the national trails system must cooperate with SecAg. 16 U.S.C. § 1248.

b. SecAg must consult with the Secretary of Interior prior to the designation of uniform national trail markers. 16 U.S.C. § 1242.

c. SecAg must consult with the advisory council for the Pacific Crest National Scenic Trail on matters relating to the trail, including the selection of rights-of-way and overall administration of the trail. 16 U.S.C. § 1244.

d. SecAg, when conducting a national scenic or national historic trail study, must consult with other federal agencies that administer lands along the proposed trail. 16 U.S.C. § 1244(b).

e. Prior to promulgating regulations governing the use, protection, and management of national trails, SecAg must seek concurrence of the federal agencies that administer lands through which the national trails run. 16 U.S.C. § 1246(i).

f. SecAg must administer the Pacific Crest National Scenic Trail and the Continental Divide National Scenic Trail in consultation with the Department of Interior. 16 U.S.C. § 1244(a).

g. SecAg must include the recommendation of historic significance of the National Park System Advisory Board in the studies of proposed routes as national historic trails. 16 U.S.C. § 1244(b).

2. State and Local Agencies

a. SecAg and the Secretary of Interior must consult with appropriate government agencies and private organizations to establish uniform trail markers. 16 U.S.C. § 1242.

b. Studies by the Forest Service of the feasibility and desirability of designating other trails as national scenic or national historic trails are to be made in cooperation with government agencies, public and private organizations, and landowners. 16 U.S.C. § 1244.

c. SecAg, on lands outside the boundaries of federal property, must encourage states and local governments to enter into cooperative agreements with individuals to grant the necessary right-of-way. 16 U.S.C. § 1246.

d. SecAg must cooperate with states to maintain trails outside the boundaries of federal property. 16 U.S.C. § 1246(h).

e. SecAg must encourage states, local agencies, and private interests to establish trails. 16 U.S.C. § 1247(c).

f. SecAg and administering federal agencies must consult with the states, local governments, and organizations before issuing trail regulations. 16 U.S.C. § 1246.

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies

a. SecAg is authorized to encourage state and local agencies and private persons to establish trails. 16 U.S.C. § 1247(c).

b. SecAg can locate side trails to national trails on non-federal land with the consent of the administering governmental agency. 16 U.S.C. § 1245.

3. Other – none

V. Cross-references to Other Statutes

A. Land and Water Conservation Fund Act, 16 U.S.C. §§ 46011–4 et seq., in 16 U.S.C. § 1247.

B. Historic Sites Act of 1935, 16 U.S.C. §§ 461 et seq. in 16 U.S.C. § 1244(b).

C. 49 U.S.C. § 1653(f) in 16 U.S.C. § 1246(g).

D. 16 U.S.C. §§ 470 et seq. in 16 U.S.C. § 1247(a).

Note: The enforcement functions of the USDA concerning national trails within its jurisdiction as they relate to compliance with this Act by the Alaska Natural Gas Transportation System were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, by §§ 102(e), (f), and 203(a) of Reorganization Plan No. 1 of 1979. The transfer is effective from July 1, 1979, until one year after the date of the initial operation of that system.

National Forest Transportation System Act

88 Stat. 479 as amended by 90 Stat. 2949; 16 U.S.C. § 1608, as amended.
August 17, 1974.

Summary

The Act adds further requirements for the National Forest Transportation System as originally developed under the National Forest Service Roads and Trails System Act (p. 113) It also deals with the problem of the restoration of vegetative cover on temporary roads. The purpose of the statute was to diminish Forest Service reliance on financing logging roads by charging their costs to the timber purchaser. The Act reinforces planning to minimize adverse environmental consequences of Forest Service roads.

I. Requirements and/or Standards

A. **Planning**

1. Roads constructed shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources. 16 U.S.C. § 1608(c).

2. The National Forest Transportation System must be carried forward in time to meet anticipated needs in an economically and environmentally sound method. 16 U.S.C. § 1608(a).

B. **Management**

1. The method chosen for financing roads must enhance local, regional, and national benefits. 16 U.S.C. § 1608(a).

2. The use of the timber purchaser financing method to fund roads as authorized by 16 U.S.C. § 535 is deemed to be "budget authority" and "budget outlays" as defined in 31 U.S.C. § 1302(a) and shall be effective for any fiscal year only in the manner required by 31 U.S.C. § 1351(a) for new spending. 16 U.S.C. § 1608(a).

3. All road construction in connection with a timber contract or other permit or lease must be temporary unless a permanent road is set forth in the relevant road system plan. 16 U.S.C. § 1608(b).

4. All temporary roads must be designed so that vegetative cover will be reestablished in the right-of-way within ten years after the termination of the contract, permit, or lease. 16 U.S.C. § 1608(b).

5. Vegetative cover need not be reestablished if the road is later designated as part of the National Forest Transportation System. 16 U.S.C. § 1608(b).

II. Authorizations (non-mandatory activities) - none

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. 16 U.S.C. § 535, 31 U.S.C. § 1302(a), and 31 U.S.C. § 1351(a) are referred to in 16 U.S.C. § 1608(a).

Note: Certain enforcement functions of USDA concerning consultation and rights-of-way by the Alaska Natural Gas Transportation System were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System by § 102(f) and 203(a) of Reorganization Plan No. 1 of 1979. The transfer is effective from July 1, 1979 until one year after the initial operation of that system.

Flood Control Act

49 Stat. 1570; 33 U.S.C. §§ 701a, 701b, 701b-1, 701b-2, 701b-6, 701b-7, 701b-11, 701c, 701e, and 702a-10, as amended.
June 22, 1936.

Summary

Federal agencies in cooperation with the states and their political subdivisions are authorized to investigate and improve waterways and watersheds for flood control purposes in order to lessen property damage and loss of life from destructive flooding.

I. Requirements and/or Standards

A. **Planning**

1. Any federal agency in planning or designing flood protection projects must consider non-structural alternatives to attain the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages. 33 U.S.C. § 701b-11a.

B. **Management**

1. SecAg is in charge of and must prosecute federal investigations of watersheds. 33 U.S.C. § 701c-1.

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. Works of improvement on the watersheds of waterways which may be undertaken by the Secretary of the Army may be transferred to SecAg. 33 U.S.C. § 701b-1.

2. SecAg may take emergency measures not exceeding $300,000 per fiscal year to prevent flood damage or watershed erosion from natural elements. 33 U.S.C. § 701b-1.

3. SecAg is authorized and directed to make preliminary examinations and surveys to be made for run-off and water-flow retardation and soil erosion prevention of watersheds. 33 U.S.C. § 701b-6.

4. After submitting to Congress a report made on a survey under this Act, SecAg may make a supplemental report if authorized by law or by the Committee on Public Works of either the House or Senate. 33 U.S.C. § 701b-7.

5. SecAg can acquire properties within the Eudora-Morganza Floodway of the Atchafalaya River for national forest or wildlife refuges purposes and shall be reimbursed from the Corps of Engineers for the cost of the purchase of the floodway easement caused by the Corps' activities. 33 U.S.C. § 702a-10.

III. Mandatory Coordination - none

IV. Authorized Coordination

A. **Other Statutes**

1. The authority conferred by this Act is supplemental to all other authority and appropriations relating to the departments or agencies concerned and does not limit any department or agency in carrying out related authorized activities.

B. **Groups**

1. Federal Agencies

a. Works of improvement on the watersheds of waterways which may be undertaken by the Secretary of the Army may be transferred to SecAg. 33 U.S.C. § 701b-1.

2. State and Local Agencies - none

3. Other

a. In carrying out the purposes of this Act, SecAg may cooperate with institutions, organizations, and individuals, and utilize the services of federal, state, and other public agencies, and pay the cooperating agency the cost of their services. 33 U.S.C. § 701b-2.

V. Cross-references to Other Statutes

A. Watershed Protection and Flood Prevention Act, 16 U.S.C. §§ 1001-1009 (p. 125).

Corps of Engineers Water Resource Project Act

58 Stat. 889 as amended by 76 Stat. 20; 16 U.S.C. § 460d-2, as amended.
December 12, 1944, and March 3, 1962.

Summary

The Act authorizes the construction and management of public park and recreational facilities in conjunction with Corps of Engineers water resource projects. The Act also allows the Corps to lease or license other federal, state, or local agencies to operate its recreational projects.

I. Requirements and/or Standards - none

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. Federal agencies may lease or license from the Corps of Engineers lands to be utilized for the development and conservation of fish and wildlife, forests, and other natural resources. 16 U.S.C. § 460d.

2. Federal licensees or lessees may cut timber or harvest crops and utilize the proceeds of any sales for the development, conservation, maintenance, and utilization of such lands. 16 U.S.C. § 460d.

3. SecAg may amend any lease of land under jurisdiction of Forest Service providing for the construction, maintenance, and operation of a commercial recreational facility at a federal reservoir project if necessary to protect the public interest. 16 U.S.C. § 460d-2.

4. SecAg may not adjust rental fees or other consideration under any lease for any period of time prior to the date of adjustment. 16 U.S.C. § 460d-2.

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The Corps of Engineers and SecAg can agree to the mutual operation and division of authority over any water resource development project. 16 U.S.C. § 460d.

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. Flood Control Act, 33 U.S.C. § 701a et seq. (p. 121).

B. Land and Water Conservation Fund Act, 16 U.S.C. § 460l-11 (p. 127).

Watershed Protection and Flood Prevention Act

86 Stat. 6671; 16 U.S.C. §§ 1001-1009.
August 4, 1954.

Summary

The Act is designed to protect watersheds from flood, erosion, and sedimentation damage through the use of federal financial assistance to those local organizations and states which construct "works of improvement" to prevent this damage. SecAg is the principal administrator over all phases of the grant-in-aid process.

I. Requirements and/or Standards - none

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may cooperate with other federal agencies for coordinated watershed programs. 16 U.S.C. § 1006.

B. **Management**

1. Federal agencies can seek funds from SecAg for cooperative studies of river basins. 7 C.F.R. § 621.11.

III. Mandatory Coordination - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. SecAg may cooperate with other federal agencies to make investigations and surveys of watersheds. 42 U.S.C. § 1006.

2. State and Local Agencies

a. SecAg may cooperate with state and local agencies to make investigations and surveys of watersheds. 42 U.S.C. § 1006.

3. Other - none

V. Cross-references to Other Statutes - none

Land and Water Conservation Fund Act of 1965

78 Stat. 897; 16 U.S.C. § 460ℓ-11, as amended.
September 3, 1964.

Summary

The Act's principal purpose is to assure accessibility to all citizens to outdoor recreation resources. The Act provides a source of funds, through the sale of surplus federal property, motor boat fuel tax, and designated user fees, for the planning and development of outdoor recreational sites by both the federal government and its agencies and state government. User fees are divided into two categories, admission or entrance fees and recreation use fees. Admission fees are only valid at national recreational areas administered by the Department of Agriculture. However, recreational user charges can be imposed by any federal agency "developing, administering, providing or furnishing at federal expense specialized outdoor recreation sites, facilities, equipment or services. . . ."

I. Requirements and/or Standards

A. **Planning**

1. SecAg must review annually all areas under USDA jurisdiction for purposes of including or excluding those areas within the recreational user charges imposed. Executive Order 11200.

2. In deciding whether any additional areas should be designated as those in which recreational user fees should be charged, SecAg must consider the criteria established by the Executive Order 11200 and the Secretary of Interior. Id.

3. SecAg must find that all of the following conditions exist before any area can be designated as one in which recreation user fees shall be charged: (a) the area is administered by any of the eight agencies specified earlier in the Order, including the Forest Service; (b) the area is administered primarily for scenic, scientific, historical, cultural, or recreational facilities or services provided at federal expense; and (d) the nature of the area is such that fee collection is administratively and economically practical. Id.

B. **Management**

1. SecAg must post signs at all designated fee areas prior to collection of fees. Executive Order 11200.

2. SecAg must charge user fees in accordance with the criteria prescribed by the Secretary of Interior. Executive Order 11200.

3. The Forest Service can use Land and Water Conservation Fund monies for the purchasing of inholdings within wilderness areas or any other areas of national forests which serve as the boundaries of those forests existing on the effective date of the Act. 16 U.S.C. § 460ℓ-9.

4. The Forest Service can only purchase land outside of, but adjacent to, existing national forest boundaries which are smaller than 3,000 acres in the case of any one forest which would comprise an integral part of a forest recreational management area. 16 U.S.C. § 460ℓ-9.

5. The Forest Service cannot add more than 15% of the acreage to the national forest system west of the one hundredth meridian pursuant to the Land and Water Conservation Fund Appropriations Act. 16 U.S.C. § 460ℓ-9.

6. SecAg can only charge admission fees for national recreation areas. 16 U.S.C. § 460ℓ-6a.

7. Federal agencies can charge three types of federal recreation fees: (a) entrance fees at designated national parks and national recreational areas, (b) daily recreational fees for the use of specialized sites, and (c) special recreation permits. 16 U.S.C. § 460ℓ-6a and 43 C.F.R. § 18.2.

8. Federal agencies should utilize the following criteria in designating areas for which a recreation use fee can be charged: (a) size of federal investment on the forest, (b) need for regular maintenance, (c) need for on-site governmental personnel, (d) use of the facility for the personal benefit of the user, and (e) cost of administering the fee collection system. 43 C.F.R. § 18.3.

9. The Corps of Engineers and the Forest Service have agreed to a uniform user fee charge for certain activities pursuant to the Land and Water Conservation Act of 1965. 36 C.F.R. § 313.4.

10. Federal agencies cannot charge user fees for drinking water, wayside exhibits, roads, overlook sites, visitor centers, scenic drives, toilet facilities, picnic tables, and boatramps.

11. Federal agencies can charge a user fee for specialized boat ramp facilities such as rechargeable or hydraulic boat lifts.

12. Federal agencies must permit entry into designated areas through the use of a Golden Eagle Passport good for a calendar year for which the charge shall not exceed $10. 16 U.S.C. § 460ℓ-6a and 43 C.F.R. § 18.5.

13. Federal agencies must charge at a designated area a reasonable single visit entrance fee. 16 U.S.C. § 460ℓ-6a.

14. Federal agencies must use the following criteria in developing reasonable single visit entrance fees: (a) direct and indirect governmental costs, (b) benefit to the recipient, (c) public policy and similar charges by other agencies, and (d) feasibility of fee collecting system. 43 C.F.R. § 18.7.

15. Federal agencies must use the following criteria in determining recreational fees, (a) direct and indirect governmental costs, (b) benefit to the recipient, (c) public policy and similar charges by other agencies, (d) economic and administrative feasibility of fee collecting, and (e) other pertinent factors. 16 U.S.C. § 460ℓ-6a, 43 C.F.R. § 18.9.

16. All fees must be fair and equitable. 16 U.S.C. § 460ℓ-6a.

17. All federal agencies must post a clear notice that fees have been established. 16 U.S.C. § 460ℓ-6a.

18. All federal agencies must transfer funds collected under this Act into a special account in the Treasury of the United States. 16 U.S.C. § 460ℓ-6a.

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. Federal agencies may establish special recreation permits for such uses as group or motorized events pursuant to their own procedures. 16 U.S.C. § 460ℓ-6a.

2. Federal agencies may prescribe rules and regulations to carry out their functions under the Act. 16 U.S.C. § 460ℓ-6a.

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. All federal agencies must utilize the Department of Interior's established recreation user fees for each designated area. Executive Order 11200.

b. Each federal official administering land under

which fees can be charged must select their fees from the schedule of fees prescribed by the Secretary of Interior. Executive Order 11200.

c. The Secretary of Interior is required to consult with the heads of other affected departments and agencies and must adopt such cooperative measures as are necessary to carry out the purposes of the Executive Order. Id.

d. SecAg and the Secretary of Interior must establish procedures by which a Golden Age Passport is made available to persons over 62 years of age. 42 U.S.C. § 460ℓ–6a.

2. State and Local Agencies – none

3. Other

a. Federal agencies must hold public hearings and post requirements for all designated areas so that the visiting public will know that recreation user fees are charged therein. 43 C.F.R. § 18.4.

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none

2. State and Local Agencies

a. The President may promulgate regulations requiring the coordination between the programs and activities of all federal agencies and those of the state utilized Land and Water Conservation Fund monies. 16 U.S.C. § 460ℓ–8.

3. Other – none

V. Cross-references to Other Statutes – none

Federal Water Project Recreation Act

79 Stat. 213; 16 U.S.C. §§ 460ℓ-12 to 21, as amended. July 9, 1965.

Summary

The Act requires full consideration of outdoor recreation, planning, and fish and wildlife enhancement in federal water resource projects. It also provides a mechanism for non-federal public bodies to manage facilities for outdoor recreation and fish and wildlife enhancement at federal water projects.

I. Requirements and/or Standards

A. **Planning**

1. Federal agencies, in planning any federal water resource project, must consider the opportunities for outdoor recreation and fish and wildlife enhancement. 16 U.S.C. § 460ℓ-12.

2. Federal agencies in charge of the water project must encourage non-federal public bodies to administer project areas for the purpose of outdoor recreation and for fish and wildlife enhancement. 16 U.S.C. § 460ℓ-13.

3. A federal construction agency cannot allow a non-federal public agency to manage an area for these purposes if the area is included within a national recreation area, national forest system, or is otherwise appropriate for federal management. 16 U.S.C. § 460ℓ-12; 16 U.S.C. § 460ℓ-17(d).

4. All federal agencies planning recreation projects must coordinate their planning efforts with existing and planned federal, state, or local recreation developments. 16 U.S.C. § 460ℓ-12.

B. **Management**

1. No lands under the jurisdiction of an agency may be devoted to recreation or fish and wildlife purposes without the consent of the head of the agency. 16 U.S.C. § 460ℓ-18(c).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. A federal agency having jurisdiction over a water recreation project, except one located on national forest lands, may execute an agreement with non-federal public bodies which agree to administer the project land for recreation and fish and wildlife enhancement and to bear the costs specified in the statute. 16 U.S.C. § 460ℓ-13.

B. **Management**

1. If the federal agency does not execute an agreement with a non-federal public body within ten years of the initial operation of the project, the head of such agency having jurisdiction over the project may utilize the land for any lawful purpose, offer the land for sale to the prior owner or his heirs, transfer the land to another federal agency, lease the lands to a non-federal public body, or dispose of the lands as surplus property. 16 U.S.C. § 460ℓ-14(b)(2).

2. Federal agencies may lease recreation facilities and lands to authorized non-federal public bodies. 16 U.S.C. § 460ℓ-15.

III. Mandatory Coordination

A. **Other Statutes**

1. The Act does not apply to projects constructed under authority of the Small Reclamation Projects Act (43 U.S.C. § 422a-k) or the Watershed Protection and Flood Prevention Act (18 U.S.C. § 1001 et seq.). 16 U.S.C. § 460ℓ-17(c).

2. Construction of any project under the federal reclamation laws, Rivers and Harbors Act, or Flood Control Acts is not authorized if the sum allocated to recreation and fish and wildlife enhancement exceeds the sum allocated for power, water supply, navigation, irrigation, and flood control, unless the project enhances anadromous fisheries, shrimp, and migratory birds and a favorable cost-benefit ratio exists. 16 U.S.C. § 460ℓ-20.

B. **Groups**

1. Federal Agencies

a. The Secretary of Interior must transfer jurisdiction to SecAg if the project reservoir is located within the boundaries of a national forest, unless the Secretaries of Interior and Agriculture determine otherwise, and any land so transferred becomes national forest land. 16 U.S.C. § 460ℓ-18(c).

b. Development of the recreational potential of a water resource project under Forest Service supervision shall be coordinated with existing and planned federal recreation developments. 16 U.S.C. § 460ℓ-12.

2. State and Local Agencies

a. Development of the recreational potential of a water resource project under Forest Service supervision shall be coordinated with existing and planned state and local developments. 16 U.S.C. § 460ℓ-12.

3. Other

a. Federal agencies must encourage non-federal public bodies to manage facilities for outdoor recreation and fish and wildlife enhancement by providing for cost-sharing in the maintenance of those facilities. 16 U.S.C. §§ 460ℓ-13, 14.

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The Secretary of Interior may enter into an agreement with the Forest Service for the administration of project lands located within a national forest by the Forest Service. 16 U.S.C. § 460ℓ-18(c).

b. The Secretary of Interior may transfer lands within or adjacent to the exterior boundaries of the national forests to SecAg. 16 U.S.C. § 460ℓ-18(c).

c. The Secretary of Interior may enter into an agreement for the administration of project lands by any federal agency for the purpose of recreation and fish and wildlife enhancement. 16 U.S.C. § 460ℓ-18(b).

2. State and Local Agencies - none

3. Other

a. Forest Service may lease facilities and lands to authorized non-federal public bodies. 16 U.S.C. § 460ℓ-15.

V. Cross-references to Other Statutes - none

Water Resources Planning Act

79 Stat. 244; 42 U.S.C. §§ 1962, 1962-1 and 2, 1962a-1, 2, 3, and 4, as amended.
July 22, 1965.

Summary

The Act declares congressional policy to be the coordinated development, conservation, and utilization of water and related land resources of the United States. The Act creates a Water Resources Council. SecAg is a member of the Water Resources Council. The Council's primary function is to establish principles, standards, and procedures for federal agencies in the preparation of regional or river basin plans. It can exercise a review role over federal water projects.

I. Requirements and/or Standards

A. **Planning**

1. All federal agencies must utilize the Water Resources Council's standard for setting the discount rate in determining a proposed project's cost-benefit ratio. 18 C.F.R. § 704.39.

2. The discount rate is based on the average yield of interest-bearing marketable securities of the United States issued in the prior fiscal year. Id.

B. **Management**

1. SecAg must be a member of the Water Resources Council. 42 U.S.C. § 1962a.

2. All federally financed water resource projects must be based on a cost-benefit analysis. 42 U.S.C. § 1962-2.

II. Authorizations (non-mandatory activities) - none

III. Mandatory Coordination - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. SecAg may be consulted by the Water Resources Council in its development of principles, standards, and procedures for the preparation of regional or river basin plans and federal projects. 42 U.S.C. § 1962-2.

2. State and Local Agencies - none

3. Other - none

V. Cross-references to Other Statutes

A. The Act does not supersede or modify any existing law authorizing federal agencies to develop or participate in water resource development. 42 U.S.C. § 1962-1.

B. The Act does not affect federal jurisdiction in water resource projects, nor does it affect the authority of federal officials to discharge their duties. Id.

1) The Antiquities Act of 1906, 2) The Historic Sites, Buildings, and Antiquities Act of 1935, and 3) The National Historic Preservation Act of 1966

(1) 34 Stat. 225, 16 U.S.C. §§ 431–433; (2) 49 Stat. 666, 16 U.S.C. §§ 461–467; and (3) 80 Stat. 915, 16 U.S.C. §§ 470–470t.
(1) June 8, 1906; (2) August 21, 1935; and (3) October 15, 1966.

Summary

These statutes provide the means by which monuments, sites, and buildings of historical, archaeological, architectural, cultural, or scientific significance are preserved for future generations. The statutes authorize the creation of historic landmarks, sites, and monuments. Generally the Secretary of Interior through the National Parks Service is then given responsibility for restoration, maintenance, protection, and preservation of those areas. The 1966 Act creates the National Register of buildings, sites, and areas of historical or cultural importance. That Act then provides means by which items listed on the National Register are protected through licensing or grants programs from destruction by the federal government.

I. Requirements and/or Standards

A. **Planning**

1. The results of studies or excavations at national historic sites or monuments must be permanently preserved in public museums. 16 U.S.C. § 432.

2. The appropriation, excavation, or damaging of an historical site or monument without the approval of the federal agency whose jurisdiction the area is located under is a criminal offense subject to a fine of $500 or 90 days imprisonment or both. 16 U.S.C. § 433.

3. The obligations for gathering historical data, disseminating information, studying sites and buildings for historical and cultural significance, and otherwise restoring, maintaining, and preserving them are placed with the Secretary of Interior. 16 U.S.C. § 462.

4. Each federal agency must consider the effect of its proposed action, its financial assistance, or its granting a license on sites, buildings, monuments, or objects that are listed in or eligible for inclusion in the National Register before undertaking the action, giving the financial assistance, or granting the license. 16 U.S.C. § 460f. See also Stop H-3 Ass'n v. Coleman, 533 F.2d 434 (9th Cir. 1976) and WATCH v. Harris, 603 F.2d 310 (2d Cir. 1979).

B. **Management**

1. SecAg must promulgate uniform rules and regulations by which permission to study, excavate, and obtain data from historic areas within SecAg's jurisdiction may be obtained. 16 U.S.C. § 432.

2. To obtain data from historic sites, permittees must be qualified in the activity being undertaken and be able to obtain the information for museums, universities, colleges, or other recognized scientific or educational institutions. Id.

3. Each federal agency must permit the Advisory Council on Historic Preservation a reasonable opportunity to comment on any activity including financial assistance or licensing of an activity that would affect something listed in or eligible for inclusion in the National Register. 16 U.S.C. § 470f WATCH v. Harris, 603 F.2d 310 (2d Cir. 1979).

4. Each federal agency is responsible for preservation, rehabilitation, and maintenance of historic sites located on federally-owned land under its jurisdiction if the site is listed in the National Register of historic places. Executive Order 11593, May 13, 1971.

5. Each federal agency must report annually to the Secretary of Interior on procedures for maintaining historic sites. Id.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The President may establish national monuments by public proclamation of naming sites, locations, or objects as having historical or scientific interest that are located on federally owned lands. 16 U.S.C. § 431.

2. The Secretary of Interior is authorized to accept relinquishment of contested claims for privately owned lands on which national monuments are located. Id.

3. The Secretaries of Interior, Agriculture, and the Army may grant permission to qualified institutions to study, excavate, and gather data and objects from national monuments located on lands within their respective jurisdictions. 16 U.S.C. § 432.

4. The permittees to investigate, study, and gather data and objects from national monuments must be qualified institutions including reputable museums, universities, colleges, or other recognized or educational institutions seeking to increase the knowledge about the objects. Id.

5. Any gatherings obtained from explorations of national monuments with permission must be permanently preserved and made available in a public museum. Id.

6. The Secretary of Interior may receive the assistance and cooperation of other federal agencies in carrying out the national policy of historic preservation for public use. 16 U.S.C. § 464(a).

7. The Secretary of Interior may use technical advisory committees in restoration and reconstruction of historic buildings or structures. 16 U.S.C. § 464(b).

8. The Secretary of Interior is authorized to maintain a National Register of historic sites, buildings, and objects and to engage in a matching grants program with states and federal agencies to preserve and protect items listed in the National Register. 16 U.S.C. § 470a.

B. **Management** – none

III. Mandatory Coordination

A. **Other Statutes**

1. The civil and criminal jurisdiction of states over lands acquired by the United States under §§ 461–467 is not affected by those sections. 16 U.S.C. § 465.

2. Sections 461–467 shall govern if they are in conflict with any other sections relating to the same subject matter. 16 U.S.C. § 467.

B. **Groups**

1. Federal Agencies

a. All federal agencies must supply the Advisory Council on Historic Preservation with information relating to the Council's functions regarding historic preservation. 16 U.S.C. § 460f.

2. State and Local Agencies – none

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Federal agencies may assist and cooperate with Secretary of Interior in carrying out historic preservation for public use outlined in §§ 461–467. 16 U.S.C. § 464a.

2. State and Local Agencies – none

3. Other

a. Secretary of Interior may consult other private organizations for technical assistance in restoration and reconstruction of historic sites and places. Id.

V. Cross-references to Other Statutes

A. The Land and Water Conservation Fund Act of 1965 is referred to in 16 U.S.C. § 470b(a).

Note: In 1980 a federal district court invalidated a Department of Interior landmark designation under the 1935 Act because of the inadequacy of designation procedures and the lack of substantive standards for designation. Historic Green Springs, Inc. v. Bergland, 497, F. Supp. 839, 14 ERC 2057 (D. Va. 1980).

Protection of Bald and Golden Eagles Act

54 Stat. 250; 16 U.S.C. §§ 668–668d, as amended.
June 8, 1940.

Summary

This Act establishes criminal offenses for taking, stealing, killing, or transporting golden and bald eagles. It provides for civil and criminal penalties for violations of the Act. Enforcement of the Act is by the Department of Interior. Other than reporting violators or violations to appropriate officials, the Act does not directly relate to the Forest Service.

I. Requirements and/or Standards - none

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. The head of the federal agency that has issued a lease, license, permit, or otherwise authorized grazing on federal land to a person who has been convicted of a violation of the Act or of regulations and permits issued under the Act, may immediately cancel the grazing permission. 16 U.S.C. § 668a.

2. The United States shall not be liable for any damages, reimbursement, or compensation for cancellation of grazing permission for a person convicted of a violation of the Act. Id.

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Note: The Endangered Species Act of 1973 (p. 161) should be consulted in conjunction with application of this Act. Also Executive Order 11643, as amended by Executive Order 11870, should be consulted concerning use of chemical toxicants to control predators on federal lands.

Wilderness Act of 1964

78 Stat. 890, as amended by 92 Stat. 1650; 16 U.S.C. § § 1131–1136, as amended.
September 3, 1964; October 21, 1978.

Summary

This Act declares the congressional policy of preserving lands in their natural condition so that present and future generations of Americans may enjoy the benefits of wilderness as a natural resource. This policy is carried out through the National Wilderness Preservation System by which Congress classifies certain federal lands as protected areas. Lands within the system are to be managed and administered in a manner to protect and preserve their natural condition and to minimize man's impact upon the area.

I. Requirements and/or Standards

A. Planning

1. All areas within national forests that were classified as "wilderness," "wild," or "canoe," by August 4, 1964, are wilderness areas. 16 U.S.C. § 1132(a).

2. SecAg must undertake 10-year review of areas classified as primitive within the national forest on September 3, 1964, to determine their suitability for inclusion within the system. 16 U.S.C. § 1132(b).

3. Wilderness areas must be declared by Congress upon the recommendation of the President based upon SecAg's study. 16 U.S.C. § 1132(b).

4. SecAg must give appropriate public notice, hold convenient public hearings in each state in which the primitive area is located, and must invite and advise appropriate state and federal agencies of the hearing prior to any recommendation to the President concerning suitability of primitive areas as wilderness. 16 U.S.C. § 1132(d).

5. The purposes of the Wilderness Act are supplemental to the purposes for which national forests are administered and established. 16 U.S.C. § 1133(a) and United States v. Gregg, 290 F. Supp. 706 (D. Wash. 1968).

6. Wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historic use. 16 U.S.C. § 1133(b).

7. All the provisions of mining laws and mineral leasing laws apply in wilderness areas to the same extent they did prior to September 3, 1964, until midnight, September 31, 1983. 16 U.S.C. § 1133(d)(3).

8. Mining locations within wilderness areas shall be held and used only for mining or processing operations and uses reasonably incidental thereto. Id.

9. Subject to valid existing rights, all mining law patents affecting national forest lands designated as wilderness areas shall convey title to the mineral deposits within the claim and the right to cut and use mature timber necessary to acquire the mineral deposits, if the needed timber is not otherwise reasonably available and if the timber is cut under sound principles of forest management under national forest rules and regulations. Id.

10. All patents issued under the mining laws shall reserve title to the surface in the United States. Id.

11. No patent or mineral rights within wilderness areas shall issue after December 31, 1983, except for valid claims predating that date.

12. Mineral leases, permits, and licenses on land within national forest wilderness areas after September 3, 1964, must contain reasonable stipulations prescribed by SecAg to protect the wilderness character of the land consistent with the use of the land permitted under the lease, license, or permit. Id.

13. Subject to valid rights then existing, minerals in land within wilderness areas are withdrawn from all forms of appropriations under mining laws and disposition of mineral leasing laws after January 1, 1984. Id.

14. The Boundary Waters Canoe Area was declared a wilderness area as of October 21, 1978. 92 Stat. 1649.

15. Rights of access to state-owned or privately owned lands completely surrounded by national forest wilderness areas shall be granted the landowner, or the state-owned or privately owned lands shall be exchanged for federally owned land of approximately equal value in the same state under available authorities to SecAg. 16 U.S.C. § 1134(a).

16. Any land exchanged by a state or private party must relinquish the mineral interest in the land. Id.

17. SecAg must issue reasonable regulations allowing ingress and egress to mining claims or users wholly within a wilderness area in a manner consistent with the preservation of the area.

B. Management

1. Wilderness areas must be administered for the use and enjoyment of the American people to leave the areas unimpaired for future use and enjoyment as wilderness, to protect and preserve their wilderness character, and to gather and disseminate information concerning their use and enjoyment as wilderness. 16 U.S.C. § 1131(a).

2. SecAg must file a map of areas designated as wilderness under the Act within one year of its date. 16 U.S.C. § 1132.

3. SecAg must maintain and make available to the public records relating to the designated wilderness areas, regulations governing them, and reports to Congress concerning additions, eliminations, or modifications thereof. Id.

4. SecAg must make maps, legal descriptions, and regulations pertaining to wilderness areas available to the public in the offices of regional foresters, national forest supervisors, and forest rangers. Id.

5. SecAg must conduct periodic review of the designated primitive areas for inclusion in the wilderness system. This review must cover one-third of the areas. Id.

6. Any recommended modification or adjustment of the boundaries of wilderness areas by SecAg must be preceded by a notice and a public hearing and accompanied by maps and descriptions of those areas in the report to the President. 16 U.S.C. § 1132(e).

7. Each agency administering a wilderness area shall be responsible for preserving its wilderness character and must administer other permissible uses for which it may have been established also to preserve the wilderness character. 16 U.S.C. § 1133.

8. Unless expressly authorized and subject to existing private rights, no commercial enterprise or permanent road can exist within a wilderness area. 16 U.S.C. § 1133(c).

9. Unless necessary to meet the minimum requirements for administering wilderness areas under this Act, including health and safety of persons, the following are prohibited: temporary roads, use of motor boats, motorized equipment and motor boats, landing of aircraft, any form of mechanical transport, and any structure or installation within a wilderness area. 16 U.S.C. § 1134.

10. The United States shall not transfer to a state or private owner any mineral interests unless the state or private owner relinquishes mineral interests in surrounding lands to the United States. 16 U.S.C. § 1134.

11. Wilderness areas within the system shall continue to be managed by the department and agency having jurisdiction over the areas immediately before their inclusion in the system. 16 U.S.C. § 1131.

12. The Wilderness Act requirements that SecAg conduct a ten-year study and make a report with recommendations to the President for submission to Congress is mandatory and includes areas contiguous to wilderness areas that are otherwise suitable for wilderness purposes. Parker v. United States, 309 F. Supp. 593 (D. Colo. 1970), affirmed 448 F.2d 793 (10th Cir. 1971).

13. Contiguous areas to wilderness areas being studied for possible inclusion within the wilderness area must be preserved in their natural state until the study, presidential action, and congressional action are completed. Id.

14. SecAg must issue reasonable regulations, consistent with the preservation of wilderness, to permit ingress and egress to mining claims and valid occupancies wholly within a designated national forest wilderness area in the manner in which they previously had enjoyed access. 16 U.S.C. § 1134.

II. Authorizations (non-mandatory activities)

A. Planning

1. SecAg may impose restrictions on the continuation of an established use of motor boats or aircraft in a wilderness area. 16 U.S.C. § 1133.

2. SecAg may allow necessary measures to be taken to control fire, insects, and diseases. Id.

3. Information gathering about mineral or other resources, including prospecting, may be carried on in a manner compatible with the preservation of the wilderness in national forest areas. 16 U.S.C. § 1133.

4. SecAg may prescribe reasonable regulations concerning ingress and egress to mining claims and mining locations within wilderness areas. SecAg may also use the land for transmission lines, water lines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations including, where essential, the use of mechanized ground and air equipment and may require restoration as near as practicable of the surface of the land disturbed in performing, prospecting, location and in oil and gas, discovery work, exploration, drilling and production, when finished. Id.

5. SecAg determines the regulations governing cutting of forest timber for mining use in wilderness areas. Id.

6. The President, pursuant to regulations, may authorize prospecting for water resources, the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest upon a presidential determination that the use or uses in the area will better serve the interests of the United States and the people. 16 U.S.C. § 1134.

7. The President may authorize grazing of livestock if that use was preestablished under regulations issued by SecAg. Id.

B. Management

1. Commercial services may be performed in wilderness areas for activities consistent and compatible with recreational and wilderness purposes. 16 U.S.C. § 1133(d)(5).

2. SecAg may acquire privately owned land within wilderness areas with the concurrence of the owner or the authorization of Congress. Id.

3. SecAg may accept gifts or bequests of land as wilderness areas subject to approval of Congress. 16 U.S.C. § 1135.

4. SecAg may acquire privately owned lands within a designated wilderness area if necessary funds are appropriated by Congress and if the owner concurs or Congress authorizes the acquisition. 16 U.S.C. § 1134(c).

5. Lands accepted by SecAg from a private owner may be subject to agreements or conditions consistent with the policies of the Wilderness Act, and SecAg may issue appropriate regulations. 16 U.S.C. § 1136.

6. The Forest Service determines the appropriate manner by which the primitive and natural characteristics of the wilderness area shall be preserved. MPIRG v. Butz, 358 F. Supp. 584 (D. Minn. 1973).

7. The Forest Service determines whether a permit adequately protects the natural and primitive qualities of a wilderness area and on what conditions or restrictions it does so. Izaak Walton League v. St. Clair, 497 F.2d 849 (8th Cir. 1974).

III. Mandatory Coordination

A. Other Statutes

1. No appropriated funds are available for expenses, salaries, or hiring additional personnel to administer a wilderness area as a separate unit. 16 U.S.C. § 1132(b).

2. The purposes of the Wilderness Act are declared within and supplemental to the purposes for which national forests are established and administered, and they are not intended to interfere with the purposes stated in 16 U.S.C. § 475 and the Multiple-Use Sustained-Yield Act of 1960. 16 U.S.C. § 1133(a).

3. The Act does not affect the restrictions and provisions of the Shipstead-Nolan Act, the Thye-Blatnik, and the Humphrey-Thye-Blatnik-Anderson Act or the regulations of SecAg. Id.

4. The laws related to mining and mineral leasing must be complied with in developing mining claims or patents thereunder. 16 U.S.C. § 1133(d).

5. The Wilderness Act does not constitute either a claim or a denial of exemption from state water laws. 16 U.S.C. § 1133(d)(6).

6. The Wilderness Act does not affect the jurisdiction of states over fish and wildlife in national forests. 16 U.S.C. § 1133(d)(7).

B. Groups

1. Federal Agencies

a. SecAg must conduct a ten-year review of formerly designated primitive areas to report to the President on suitability of those lands as wilderness areas for the President to recommend appropriate action to Congress of potential designation of wilderness areas. 16 U.S.C. § 1132(b).

b. The federal agency originally having jurisdiction over lands designated as wilderness areas continues to have jurisdiction and responsibility for the administration of those lands as wilderness areas. 16 U.S.C. §§ 1131 and 1133.

c. Information concerning minerals and other resources in wilderness areas may be gathered pursuant to a program developed by Secretary of Interior, after consultation with SecAg, in a manner prescribed by the Geological Survey and the Bureau of Mines consistent with the preservation of the wilderness character of the area. 16 U.S.C. §§ 1133(d)(2).

d. State-owned land or privately-owned land completely surrounded by wilderness area land must be provided access rights or must be exchanged for federally-owned land of approximately the same value within the same state under the exchange authority of SecAg. 16 U.S.C. § 1134(a).

e. Mineral interests in the federal lands shall not be transferred to the private owner in an exchange transaction unless the owner relinquishes mineral interest in the privately-held land to the United States. 16 U.S.C. § 1134(a).

f. SecAg and the Secretary of Interior must file a joint report with Congress on the opening day of each session concerning the status of the wilderness system, including a list and description of wilderness areas within the system, regulations in effect, and other pertinent information or recommendations. 16 U.S.C. § 1136.

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies – none
2. State and Local Agencies – none
3. Other

a. SecAg may accept gifts or bequests of land within designated wilderness areas for preservation as wilderness. 16 U.S.C. § 1135(a).

b. SecAg may accept gifts or bequests of land adjacent to designated wilderness areas if SecAg gives 60-day advance notice of the acquisition to the Speaker of the House and the President of the Senate, the land then becoming part of the designated wilderness area. Id.

V. Cross-references to Other Statutes

Note: The provisions of the Wilderness Act relating to the jurisdiction and obligations of the Secretary of Interior are not discussed above. Subsequent statutes need to be consulted concerning special treatment afforded wilderness areas, including NEPA (p. 147) and the Clean Air Act of 1977, 42 U.S.C. § 7470 (p. 149).

The Wilderness Act defines wilderness

> as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain . . . [For purposes of this Act it is] an area of undeveloped Federal land containing its primordial character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) as outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) as at least 5,000 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific education, scenic, or historical value. 16 U.S.C. § 1131.

The Wilderness Act was amended October 21, 1978, to declare the Boundary Waters Canoe Area Wilderness and the Boundary Waters Canoe Area Mining Protection Area as part of the Wilderness System under the Act. Uses in the Boundary Waters Canoe Area Wilderness for timbering, mining, and commercial purposes are more strictly regulated and under the management of SecAg. Public Law 95–495 placing the Boundary Waters Canoe Area within the Wilderness System must be consulted for specific restrictions on use and directions concerning management of that area.

Pursuant to the Wilderness Act and NEPA the USDA issued its nationwide study of potential wilderness areas in the Forest Service Roadless Area Review and Evaluation (RARE II) in January 1979. That study is involved in litigation and was declared inadequate by a federal district court. California v. Bergland, 483 F. Supp. 465, 13 ERC 2203 (D. Cal. 1980).

The enforcement functions relating to consultation and approval under §§ 1133 and 1134 as they relate to the Alaska Natural Gas Transportation System were transferred to the Federal Inspector, Office of the Federal Inspector of the Alaska Natural Gas Transportation System, by Reorganization Plan No. 1 of 1979. The transfer is effective from July 1, 1979 until one year after the initial operation of that system.

Department of Transportation Act § 4(f)

30 Stat. 771; 49 U.S.C. § 1653(f) (same provision in 23 U.S.C. § 138).
August 23, 1968.

Summary

The Act declares the congressional policy of requiring special effort be taken to preserve the scenic beauty of the nation in the construction of federal-aid highways. Highway projects should not traverse public parklands unless no other feasible alternative exists. If no feasible and prudent alternative exists, the highway must be planned so as to minimize adverse effects.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must consult and cooperate with the Secretary of Transportation in developing transportation plans which maintain or enhance the beauty of the lands traversed. 49 U.S.C. § 1553(f).

B. **Management**

1. Federal agencies shall determine if the lands under their jurisdiction have "national significance" and are thus subject to the Act. 49 U.S.C. § 1553(f).

2. Secretary of Transportation may not approve any project that uses publicly owned land from a park, recreation area, or wildlife or waterfowl refuge or historic site of national significance unless (a) no feasible and prudent alternative exists and (b) maximum mitigation efforts have been taken. Id.

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. If a federal agency administering lands for multiple use purposes has not designated a portion of the land for park, recreation, wildlife, waterfowl, or historic purposes and no plan exists that would in the future so designate those purposes, no § 4(f) statement is required. 23 C.F.R. § 771.19 (c).

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The Secretary of Transportation is to cooperate with SecAg in developing transportation plans which include measures to enhance the natural beauty of national forest lands traversed by the highway. 49 U.S.C. § 1653(f).

b. A § 4(f) statement, prepared by the Department of Transportation as part of an environmental impact statement, must be coordinated with the agency (Forest Service) having jurisdiction over the land. 23 C.F.R. § 771.19(g).

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

ld and Scenic Rivers Act

82 Stat. 906; 16 U.S.C. §§ 1271–87.
October 2, 1968.

Summary

This Act creates the National Wild and Scenic Rivers System by which Congress preserved rivers in their basically free-flowing state. All or part of a river and adjacent area may be placed within the System and classified as wild, scenic, or recreational. The congressional policy is to preserve those rivers from development for use by present and future generations of Americans and to complement the established national policy of construction of dams on selected United States rivers. Management of rivers within the System is directed toward preserving the scenic, recreational, geologic, historic, or other value that justified its inclusion in the System.

I. Requirements and/or Standards

A. **Planning**

1. The National Wild and Scenic River System includes rivers (1) so classified by Congress or (2) so designated by the state or states' legislature through which it flows if the river will be permanently administered as wild, scenic, or recreational by the state without expense to the federal government and if they meet the requirements of the Act as determined by the Secretary of Interior upon application by the Governor of the state and approval by the Secretary of Interior. 16 U.S.C. § 1273(a).

2. SecAg must study and submit a report to the President on rivers indicated by Congress for suitability as part of the System and located on national forest lands or, where appropriate, file a joint report with the Secretary of Interior. 16 U.S.C. § 1275(a).

3. SecAg must give priority in the study to rivers under threatened development which would render them unsuitable for inclusion in the System and those which possess the greatest proportion of private lands within their areas. 16 U.S.C. § 1275(a).

4. SecAg's reports must include maps and illustrations of the area within the report, the characteristics making an area suitable or not for inclusion in the System, the status of landownership and use in the area, the reasonably foreseeable potential uses of land and water that would be adversely affected if the area were included, the federal agency which would administer the area if added to the System, cost-sharing with states of such administration, and the estimated cost of acquiring necessary lands. Id.

5. The studies of some potential additions to the System must be completed by October 2, 1979, and in some instances may not be commenced until the state legislature has acted with respect to the rivers. 16 U.S.C. § 1276(d).

6. SecAg may not acquire land for inclusion within the System by condemnation if 50% or more of the land is owned by the state or federal government. 16 U.S.C. § 1277(b).

7. SecAg may not acquire land by condemnation if the lands are located within a political subdivision of the state that has an applicable zoning ordinance in effect which conforms to the purposes of this chapter. 16 U.S.C. § 1277(c).

8. Water resource projects including hydroelectric project works under the Federal Power Act are prohibited on a river within the System. 16 U.S.C. § 1278(a).

9. Water resource projects may not be undertaken on any river designated for study as a possible inclusion within the System either for ten years after October 2, 1968, or for three complete fiscal years after designation by Congress as a potential addition to the System, whichever date occurs later. 16 U.S.C. § 1278(b).

10. SecAg determines potential additions on national forest lands based on the suitability or non-suitability study of the river for inclusion in the System. 16 U.S.C. § 1278.

11. All public lands within the System are withdrawn from entry or disposition under the public land laws. 16 U.S.C. § 1279(a).

B. **Management**

1. Rivers within the System must be classified, designated, and administered as a wild river area, a scenic river area, or a recreational river area. 16 U.S.C. § 1273.

2. Studies by SecAg for possible additions of rivers designated in the Act on national forest lands must be completed by October 2, 1978. 16 U.S.C. § 1275(a).

3. Any recommendations and comments from other officials to SecAg concerning the proposal must be included in the transmittal to the President and Congress. 16 U.S.C. § 1275(b).

4. SecAg must issue guidelines for local zoning ordinances that would maintain rivers within the System, including prohibition on new commercial or industrial uses other than those consistent with the Act and protection of the banklands by acreage, frontage, or set-back requirements on development. 16 U.S.C. § 1277(c).

5. Lands exchanged pursuant to the Act must be of approximately equal value, and if not, necessary cash equalization payments must be made. 16 U.S.C. § 1277(d).

6. Lands within or adjacent to national forests that are transferred to or acquired by SecAg under this Act must be administered as national forest lands. 16 U.S.C. § 1277(e).

7. SecAg must determine the fair market value of land acquired under the Act less the fair market value of any retained interest by the owner. 16 U.S.C. § 1277(g).

8. Any right of use or occupancy retained in a grantor under this section must be subject to termination upon reasonable cause shown that the use or occupancy is inconsistent with the purposes of this Act. 16 U.S.C. § 1277(g).

9. If the use or occupancy retained by the owner is terminated under this Act, SecAg must pay fair market value of the right retained as of the date of termination and the right shall terminate automatically as a matter of law upon tender of the fair market value. Id.

10. Owners of single-family residential property within areas under the System may retain a right of use or occupancy for the life-expectancy of the owner and spouse or for residential purposes of a definite term not to exceed 25 years. 16 U.S.C. § 1277(g).

11. All public lands within the boundaries, constituting the bed or bank, or within a quarter of a mile of the bank of any river and area designated within the System are withdrawn from entry or disposition under the public land laws. 16 U.S.C. § 1279.

12. Mining of minerals in federal lands and constituting the bed or bank or within a quarter-of-a-mile of the bed of the river under study must be subject to necessary regulations by SecAg. 16 U.S.C. § 1280.

13. Any valid mining right or patent claim affecting lands within the System must be developed in a manner consistent with the purposes of the Act and subject to regulations issued by SecAg. 16 U.S.C. § 1280.

14. SecAg regulations relating to mining must include safeguards against pollution of the river and unnecessary impairment of the scenery of the area within the System. Id.

15. Lands subject to study for additions to the System are withdrawn from appropriation under the mining laws during the study, except that activities which preserve the character of the area for possible inclusion may be conducted according to SecAg regulations. Id.

16. Each river within the System must be administered to protect and enhance the value for which it was included without limiting uses that are not inconsistent with management. 16 U.S.C. § 1281a.

17. Administration must give emphasis to protecting the esthetic, scenic, historic, archaeologic, and scientific features. 16 U.S.C. § 1281.

18. Components of the System that are also within the Wilderness System must be managed according to the restrictions of the System imposing the stricter regulations. 16 U.S.C. § 1281(b).

19. Designation of a river or part of a river as a part of the System shall be a reservation of the water necessary to accomplish the purposes of the Act. 16 U.S.C. § 1283(c).

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may acquire lands and interest in lands within the authorized boundaries of components of the System or in lands designated for inclusion, which interest is not to exceed fee title in an average of 100 acres per mile on both sides of the river. 16 U.S.C. § 1277.

2. SecAg may acquire title to lands owned by a state only by donation and, if owned by a state subdivision or Indian tribe, only with consent of the affected group. Id.

3. SecAg may acquire by condemnation interests necessary to clear title or to obtain scenic or other easements necessary to give the public access to the river or to permit it to be traversed. Id.

4. SecAg may accept title to non-federal land within the boundaries of components of the System in exchange for federally owned land in the same state within USDA jurisdiction which SecAg classifies as suitable for exchange or other disposition. Id.

5. SecAg may accept donations of lands or interest in lands or funds or property to administer the System. Id.

6. Title to privately owned lands acquired by exchange or otherwise by SecAg may be subject to retained interests in the grantor of life estates to the grantor or the grantor's spouse or of residential uses for a definite term not to exceed 25 years, at the grantor's election. Id.

B. **Management**

1. SecAg may issue regulations that are necessary concerning mining on components of the System within national forest lands. 16 U.S.C. § 1280.

2. SecAg may issue necessary regulations concerning mining and mining claims on areas within the System on national forest lands if the claims are being perfected subsequent to the effective date of the Act. 16 U.S.C. § 1280.

3. Management plans for components of the System may set varying degrees of management intensity based on the special attributes of the area to protect and develop the area. 16 U.S.C. § 1281(a).

4. SecAg may administer any component of the System under SecAg's general statutory authorities relating to national forests in whatever manner SecAg deems appropriate to carry out the purposes of the Act. 16 U.S.C. § 1282(d).

5. SecAg may enter into cooperative agreements with states and local governmental units for participation in administration of any component of the System within national forest land. 16 U.S.C. § 1282(e).

6. SecAg must review administrative and management policies, regulations, contracts, and plans affecting land bordering on or adjacent to rivers within the System to determine appropriate measures to protect them during the study for possible inclusion in the System. 16 U.S.C. § 1283.

7. SecAg must give particular attention to scheduled timber harvesting, road construction, and similar activities or lands subject to study for possible inclusion. Id.

8. The Act does not affect any private right under contract or otherwise concerning federal lands held by a private party unless the private party consents. Id.

9. Hunting and fishing will be permitted lands and waters within the System under applicable state and federal laws and regulations. 16 U.S.C. § 1284(a).

10. Water resource projects may be conducted on potential rivers if a determination not to include a potential river has been made and the agency gave 180 days notification of the proposed project to the appropriate congressional committee. 16 U.S.C. § 1278.

11. SecAg may grant easements or rights-of-way across lands within the national forest system on conditions consistent with the purposes of the Act. 16 U.S.C. § 1283(g).

III. Mandatory Coordination

A. **Other Statutes**

1. The study of rivers within the national forest system for possible inclusion in the system shall be coordinated with water resource planning on the same river being done under the Water Resources Planning Act. 16 U.S.C. § 1275(a).

2. Components of the System that are within a wilderness area shall be subject to provisions of both Acts, and in case of conflicts the more restrictive provisions shall apply. 16 U.S.C. § 1282(b).

3. SecAg shall use the general statutory authority for national forest administration in administering components of the System. 16 U.S.C. § 1282(d).

4. The Act does not affect the jurisdiction or responsibilities of states with respect to fishing and wildlife. 16 U.S.C. § 1284.

5. SecAg may designate zones and periods for no hunting for public safety, administration, or use and enjoyment and must issue appropriate regulations after consulting with the wildlife agency of the state or states affected. Id.

6. Jurisdiction over waters of any stress within the System shall be determined by "established principles of law." 16 U.S.C. § 1284(b).

7. Compensation must be paid for property, including water rights, taken by the United States under this Act. 16 U.S.C. § 1284(b).

B. **Groups**

1. Federal Agencies

a. SecAg must consult with Secretary of Interior concerning components of studies where a river overlaps the jurisdiction of both of the Departments.

b. SecAg may acquire or transfer to other federal agencies or from other federal agencies interest in components of the System. 16 U.S.C. § 1277(e).

c. The Federal Power Commission (FPC) cannot license the construction of any project works under the Federal Power Act on any river within the System or subject to study within the system. 16 U.S.C. § 1278(a).

d. Any recommendation for water resources projects having a direct and adverse effect on the values for which the river was placed within the System as determined by the Secretary administering the area must not be made

without advising the appropriate Secretary of the intent to make the recommendations to Congress 60 days in advance. 16 U.S.C. § 1278.

e. All federal agencies and the FPC must inform SecAg concerning national forest lands of any activity that may affect rivers within the System. 16 U.S.C. § 1278(c).

f. This section shall not apply to grants under the Land and Water Conservation Fund Act of 1965. 16 U.S.C. § 1278(d).

g. Mining activities must be coordinated under federal mining and mineral leasing laws. 16 U.S.C. § 1280(e).

h. SecAg, when administering a component of the System, must cooperate with the Secretary of Interior and appropriate state water pollution control agencies to eliminate or diminish pollution of waters of the river. 16 U.S.C. § 1283(c).

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The federal agency administering a component of the System may enter into cooperative agreements with the states or political subdivisions for administration of the System. 16 U.S.C. § 1282(e).

b. Federal agencies must encourage states to cooperate in the planning administration of components of the System which include or adjoin state or county-owned lands. Id.

2. State and Local Agencies

a. Designation of a river or part of it as a component of the System shall be a reservation of only that quantity of water necessary to fulfill the purposes of the Act. 16 U.S.C. § 1283(c).

b. State jurisdiction over waters of the stream within the System shall be unaffected to the extent that state jurisdictions may be exercised without impairing the purposes of the Act or its administration. 16 U.S.C. § 1283(d).

c. Nothing in this Act shall be construed as altering or modifying or conflicting with any interstate contract. 16 U.S.C. § 1283(e).

d. This Act shall not affect the right of access of states to components of the System. 16 U.S.C. § 1283(f).

3. Other

a. SecAg may grant easements or rights-of-way through components of the System on terms that assure that the easements and rights-of-way will be related to the policy and purposes of the Act. 16 U.S.C. § 1283(g).

V. Cross-references to Other Statutes

A. Water Resources Planning Act (p. 131) in 16 U.S.C. § 1275.

B. Federal Power Act in 16 U.S.C. § 1278.

C. The Wilderness Act of 1964 (p. 137) in 16 U.S.C. § 1281.

D. The Land and Water Conservation Fund Act of 1965 (p. 127) and the Act of May 28, 1963, 16 U.S.C. § 460ℓ in 16 U.S.C. § 1282.

Note: The Federal Power Commission's functions were transferred to the Department of Energy and the Federal Energy Regulatory Commission by 42 U.S.C. §§ 7151(b), 7171(a), 7172(a), 7291, and 7293.

The National Environmental Policy Act (NEPA)

88 Stat. 852; 42 U.S.C. § § 4321 et seq., as amended.
January 1, 1970.

Summary

NEPA expresses congressional concern over environmental quality and protection and preservation of the environment for present and future generations of Americans. NEPA includes the congressional declaration of a national environmental policy calling for the creation and maintenance of conditions under which man and nature can exist in productive harmony. These policies are to be guides in interpreting and administering the policies, regulations, and public laws of the United States. NEPA encourages the use of prevention and mitigation efforts to avoid environmental degradation from federal activities by requiring consideration of environmental factors in an agency's decision-making process. Agencies also must have greater public involvement, greater cooperation among state and other federal agencies, and an interdisciplinary approach utilized in their decision-making process. NEPA imposes the "environmental impact statement" requirement and creates the Council on Environmental Quality. The congressionally declared policy commits the federal government to a continuing duty to use all practicable means and measures to improve the general welfare, to achieve productive harmony between man and his environment, and to fulfill social, economic, and other requirements of present and future generations of Americans. This policy is carried out by requiring the federal government to use all practicable means to improve and coordinate all its activities to achieve stated objectives. Thus all federal planning and activities should seek to:

(1) fulfill the responsibilities of each generation as trustees of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

Section 101, 42 U.S.C. § 4331(b).

I. Requirements and/or Standards

A. **Planning**

1. To the fullest extent possible all agencies must:

(a) utilize a systematic, interdisciplinary approach that uses the natural and social sciences and environmental design arts in planning and in decision-making that may affect man's environment. 42 U.S.C. § 4332(2)(A);

(b) identify and develop methods and procedures for giving presently unquantified environmental amenities and values appropriate consideration in decision-making. Id.(B);

(c) prepare an EIS for every recommendation or report on proposals for legislation and other major federal action significantly affecting the quality of the human environment. Id.(C);

(d) "study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." Id. (E);

(e) recognize the world-wide and long-range nature of environmental problems and, if consistent with United States foreign policy, cooperate in various international efforts to anticipate and prevent decline of the world environment. Id.(F);

(f) provide any governmental unit, public and private organizations, or individuals with information concerning improvement, restoration, or maintenance of environmental quality. Id.(G);

(g) "initiate and utilize ecological information in the planning and development of resource-oriented projects." Id.(H); and

(h) assist the CEQ. Id.(I).

2. All federal agencies must review their statutory authority, regulations, and policies and procedures to determine if they are inconsistent with the mandates of NEPA, and if so, propose measures before July 1, 1971, to bring them into compliance with NEPA and its policies. 42 U.S.C. § 4333.

B. **Management**

1. The qualifying phrase, "To the fullest extent possible," in § 4332 has been judicially interpreted to require strict compliance with NEPA requirements, e.g., Calvert Cliff's Coord. Comm. v. Atomic Energy Comm'n, 449 F.2d 1109 (D.C. Cir. 1971), cert. denied 404 U.S. 942 (1972), and an exception allowed under that language only if compliance is in direct conflict with another statutory mandate. Flint Ridge Dev. Co. v. Scenic Rivers Ass'n., 426 U.S. 776 (1976).

2. The environmental impact statement must be prepared by a responsible official within the agency. 42 U.S.C. § 4332(2)(C).

3. The environmental impact statement must include detailed discussion of "(i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented." 42 U.S.C. § 4332(2)(C).

4. In preparing the EIS the responsible official must consult and obtain comments from federal agencies having jurisdiction or special expertise with respect to the environmental impacts. Id.

5. The responsible official must take copies of the statement and comments received from appropriate federal and local agencies available to the President, the CEQ, and the public. Id.

6. The EIS and comments received from appropriate federal and local agencies must accompany the proposal through the agency's existing review process. Id.

7. The federal agency carrying out a program of grants to states must review the scope, content, and objectivity of an EIS prepared by a statewide agency under paragraph (D). 42 U.S.C. § 4332(2)(D).

8. The responsible federal official must furnish guidance and participate in the preparation of an EIS by a statewide agency. Id.

9. The responsible federal official must independently evaluate, before adoption, the EIS prepared by a statewide agency. Id.

10. The responsible federal official must notify and solicit the views from state or federal land management

entities concerning any activity or alternative that may have significant impacts on the entity. Id.

11. If there is any disagreement concerning the impacts of an activity on a state or federal land management entity under an EIS proposed by a state agency, the federal official must prepare a written assessment of the impacts for use and incorporation into a statewide agency EIS. Id.

12. All federal agencies must determine for each proposal or action whether an EIS must be prepared. E.g., Wyoming Outdoor Coord. Council v. Butz, 484 F.2d 1244 (5th Cir. 1973).

13. The EIS must discuss all reasonable alternatives to the proposed action and the environmental impact and adverse environmental effects of each alternative. E.g., NRDC, Inc. v. Morton, 458 F.2d 827 (D.C. Cir. 1972); Minnesota Public Information Research Group v. Butz, 541 F.2d 1292 (8th Cir. 1976); Trout Unlimited v. Morton, 509 F.2d 1276 (9th Cir. 1974).

14. A federal agency must prepare an administrative record on a decision not to prepare an EIS adequate to show factors considered, its findings, and the reasons for the negative determination. Hanly v. Kleindienst, 471 F.2d 823 (2d Cir. 1972), cert. denied 412 U.S. 908 (1973).

15. As alternatives to the proposed action an EIS must consider not undertaking the proposed action, options that may not be a total alternative to the proposed action if the option may be environmentally better, and options which may not be totally within the power of the agency to implement, for example, by requiring executive or other agency action. NRDC, Inc. v. Morton, 458 F.2d 827 (D.C. Cir. 1972); E.D.F. v. Froehlke, 473 F.2d 346 (8th Cir. 1972).

16. An EIS must be prepared for an entire project and not its constituent parts separately if the project is implementing a program having cumulative environmental impact [Scientists' Institute for Public Information, Inc. v. A.E.C., 481 F.2d 1079 (D.C. Cir 1973)], if the project's component parts are interrelated or interdependent thus constituting a single integrated plan [Atchison, Topeka and Santa Fe Railway v. Callaway, 382 F. Supp. 610 (1974)] or if related segments and actions cause a cumulative and synergistic impact on a region or area [Kleppe v. Sierra Club, 427 U.S. 390 (1976)].

17. The federal agency preparing the EIS must determine what alternatives are to be included and not rely solely on input and suggestions from other agencies or other sources. E.D.F. v. Froehlke, 473 F.2d 346 (8th Cir. 1972).

18. The EIS must include all adverse environmental effects which cannot be avoided if the proposed project is undertaken. E.D.F. v. Corps of Engineers, 325 F. Supp. 749 (D.C. Ark. 1971).

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. A detailed statement for any major federal action funded under a program of grants to states may be prepared by a state agency or official having statewide jurisdiction and responsibility for the action on specific conditions, including that the federal official participates in the preparation of the EIS, independently evaluates it, and adopts it for federal use. 42 U.S.C. § 4332(2)(D).

III. Mandatory Coordination

A. **Other Statutes**

1. All agencies must review existing statutory authority, regulation, and policies and recommend measures to bring them into compliance with NEPA. 42 U.S.C. § 4333.

2. Federal agencies must comply with specific statutory obligations under other statutes relating to environmental quality, cooperation with other agencies, or action in conjunction with other agencies. 42 U.S.C. § 4334.

3. NEPA policy and objectives are declared supplemental to existing authorizations of agencies. 42 U.S.C. § 4335.

B. **Groups**

1. Federal Agencies

a. Federal government must cooperate with state and local governments and other concerned public and private organizations in carrying out the national environmental policy of NEPA. 42 U.S.C. § 4331(a).

b. All agencies must work with the CEQ in developing methods to quantify environmental amenities. 42 U.S.C. § 4332(2)(B).

c. The federal official preparing the EIS must consult and obtain comments from federal agencies having jurisdiction or special expertise concerning the environmental impact of the project. 42 U.S.C. § 4332(2)(C).

d. The EIS and comments received must be circulated to the President, the CEQ, and the public. Id.

e. The responsible federal agency must work with states in preparing an EIS on major federal action funded under a program of grants to states. 42 U.S.C. § 4332(2)(D).

f. Federal agencies are required to make available environmental information concerning the restoration, maintenance, and enhancement of environmental quality to state and local governmental units and individuals. 42 U.S.C. § 4332(2)(G).

g. All federal agencies must assist the CEQ. 42 U.S.C. § 4332(2)(I).

C. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Note: The CEQ issued its Final Regulations for Implementing NEPA on November 29, 1978, at 40 C.F.R. Part 1500. All federal agencies must promulgate internal regulations to comply with NEPA which are consistent with the CEQ Final Regulations.

Clean Air Act

84 Stat. 1676 as amended by 91 Stat. 685; 42 U.S.C. §§ 1857 et seq., as amended and recodified, 42 U.S.C. §§ 7401 et seq. December 31, 1970; and August 7, 1977.

Summary

The Clean Air Act creates a comprehensive regulatory framework designed to protect the public health against the deleterious effects of air pollution. The Act attempts to control emissions from both stationary and moving sources through a variety of programs and strategies. The states have the principal functions of achieving national primary ambient air quality standards through the regulation of stationary source emissions. The federal government retains enforcement authority and preemptive authority to regulate motor vehicle emissions. The Clean Air Act provides for a program to protect visibility and prevent significant deterioration of already clean air.

I. Requirements and/or Standards

A. **Planning**

1. By August 7, 1978, all federal land managers must review all national monuments, primitive areas, and national preserves and, where appropriate, must recommend redesignation to Class I, the most protective category, where air quality related values are an important attribute of the area. 42 U.S.C. § 7474(d).

B. **Management**

1. All federal agencies having jursidictions over property or facilities or otherwise engaging in any activity which results or may result in the discharge of air pollutants must comply with applicable federal, state, and local procedural and substantive requirements including recordkeeping, monitoring, and applying for permits. 42 U.S.C. § 7418.

2. Federal land managers and federal officials responsible for managing Class I lands have an affirmative responsibility to protect the air quality related values, including visibility, of those lands. 42 U.S.C. § 7475.

3. Federal land managers of Class I land must review requests for major facility permits and, in consultation with the EPA Administrator, must decide whether the granting of the permit will have an adverse impact on air quality related values. 42 U.S.C. § 7475.

4. If a Class I federal land manager finds that a major facility will have an adverse impact on air quality related values, the finding will veto issuance of a permit unless the emitter can show no violation of the allowable increments. Id.

5. Federal land managers shall be the Secretary of the Cabinet Department which has jurisdiction over the federally owned land. 42 U.S.C. § 7662.

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. Federal land managers may demonstrate to state officials that any major emitting facility will have an adverse impact on a Class I land even though the Class I increments will not be violated, in which case states shall not issue the permit. 42 U.S.C. § 7475.

2. The federal land manager can authorize a variance from Class I increments for a major emitting facility if the manager determines that there will not be an adverse impact on air quality related values. 42 U.S.C. § 7475.

3. The federal land manager can recommend against the granting of a variance, and, if the state disagrees, the President must review the decision within 90 days of its receipt of recommendations from the federal land manager and state. 42 U.S.C. § 7475.

4. The Administrator is authorized to promulgate, implement, and enforce an indirect source review program for federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or indirect sources. 42 U.S.C. § 7410.

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The Secretary of Interior must confer with federal land managers within six months of enactment of the 1977 Act in order to identify Class I areas where visibility is an important value. 42 U.S.C. § 7491.

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies - none

2. State and Local Agencies

a. The federal land manager can file written comments on any permit application, and the state must then report any inconsistencies between the federal land manager's comments and its proposed actions. 42 U.S.C. § 7475.

3. Other - none

V. Cross-references to Other Statutes - none

Note: The EPA issued the Prevention of Significant Deterioration and Non-attainment Area Regulations under the CAA on August 7, 1980, at 45 Fed. Reg. 52676 et seq. The EPA issued its final regulations on Visibility Protection for Federal Class I Areas under the CAA on December 2, 1980, at 45 Fed. Reg. 80084 et seq.

Wild and Free-Roaming Horses and Burros Act

85 Stat. 649 as amended by 92 Stat. 1810; 16 U.S.C. §§ 1331-1340, as amended.
December 15, 1971; and October 25, 1978.

Summary

The Act provides for the management and protection of wild horses and burros by placing them under the jurisdiction of the Forest Service, with respect to those animals located on public lands which it administers, and the Bureau of Land Management, with respect to those animals located on public lands which the Bureau administers. The Act protects the animals from destruction on lands where they are currently located and requires that those lands be managed in a manner to preserve existing herds. Criminal penalties are imposed for violations of the Act.

I. Requirements and/or Standards

A. **Planning**

1. All wild and free-roaming horses and burros are placed under the jurisdiction of the Forest Service for management and protection purposes on lands which it administers. 16 U.S.C. §§ 1332(e) and 1333(a).

2. SecAg must manage wild, free-roaming horses and burros as components of the public lands. 16 U.S.C. § 1333(a).

3. In managing wild, free-roaming horses and burros on public lands SecAg must seek a natural ecological balance on the public lands. Id.

4. All management activities must be at a minimum level and must be done in consultation with a state wildlife agency in which the lands are located in order to protect the natural ecological balance of all wildlife species which inhabit the lands, particularly endangered wildlife species. Id.

5. The Secretary of Interior and SecAg must appoint a joint Advisory Committee of at least nine members to advise them on matters relating to management and protection of wild, free-roaming horses and burros. 16 U.S.C. § 1337.

B. **Management**

1. Management for the protection of wild, free-roaming horses and burros is to be done in a manner consistent with multiple-use management concepts for the public lands. 16 U.S.C. § 1332(c).

2. SecAg must consult with the state wildlife agency in which a range is proposed and the Advisory Board created under section 1337 before designating specific ranges for wild horses and burros on public lands. 16 U.S.C. § 1333(a).

3. In maintaining a natural ecological balance on the public lands, SecAg must consider recommendations of qualified scientists in fields of biology and ecology who are not associated with either a federal or state agency. Id.

4. SecAg must consider the needs of other wildlife species inhabiting the lands on which the animals live in making any allocations of forage on those lands. Id.

5. SecAg must maintain a current inventory of wild, free-roaming horses and burros on given areas of the public land. 16 U.S.C. § 1333(b).

6. SecAg must use the inventory to determine whether and where overpopulation exists and whether action should be taken to remove excess animals; to determine appropriate management levels on these areas of public lands; and to determine whether appropriate management levels should be achieved by removal or destruction of excess animals or by other means, including sterilization or natural control on population levels. Id.

7. In making the required determinations under section 1331(b)(1) SecAg must consult with the United States Fish and Wildlife Service, state wildlife agencies of the states in which the wild, free-roaming horses and burros are located, non-federal and state governmental persons recommended by the National Academy of Sciences, and other individuals who SecAg determines have scientific expertise and specific knowledge of wild horse and burro protection, wildlife management, and animal husbandry as related to rangeland management. Id.

8. SecAg must consider the current inventory of lands, information contained in any land use planning completed pursuant to section 202 of FLPMA, information in court-ordered environmental impact statements under section 2 of the Public Rangelands Improvement Act of 1978, and additional information available to SecAg in determining whether an overpopulation exists on a given area of public lands and action is necessary to remove excess animals. 16 U.S.C. § 1333(b)(2).

9. If SecAg makes the necessary overpopulation and required action findings, SecAg must immediately act to remove excess animals to restore a thriving natural ecological balance to the range and protect it from deterioration by overpopulation. Id.

10. The following removal actions in order of priority must be taken by SecAg to alleviate overpopulation conditions: (a) destruction of old, sick, or lame animals in the most humane manner possible; (b) humane capture of additional excess number of wild, free-roaming horses and burros to be removed for private maintenance and care for which SecAg determines an adoption demand by qualified individuals exists and for which humane treatment and care including proper transportation, feeding, and handling is assured, not to exceed four animals per individual per year unless SecAg determines in writing that more can properly be cared for by the individual; and (c) destruction in the most humane manner possible of the additional excess wild, free-roaming horses and burros for which an adoption demand does not exist. 16 U.S.C. § 1333(b)(2).

11. SecAg must contract for research study, the scope of which is to be determined by a panel appointed by the President, with non-federal or state governmental individuals recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management, and animal husbandry as related to rangeland management, and the study must be completed and submitted to Congress by January 1, 1983. 16 U.S.C. § 1333(b)(3).

12. Wild, free-roaming horses and burros or their remains lose that status and the protection of this Act: (a) if title passes to the transferee upon adoption; (b) if after adoption the animal dies of natural causes; (c) if the animal is duly destroyed under this Act; and (d) if the animal dies of natural causes on public or private lands and disposal is authorized by the Secretary. 16 U.S.C. § 1333(d).

13. No wild, free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commerical products. 16 U.S.C. § 1333(d).

14. SecAg's agent must arrange for the removal of wild, free-roaming horses or burros that have strayed onto private lands when notified of that fact by the landowner. 16 U.S.C. § 1334.

15. Wild, free-roaming horses and burros may only be destroyed by agents of SecAg. Id.

16. Title to horses and burros on public lands shall be determined as a matter of federal law using state laws as guidelines. 16 U.S.C. § 1335; American Horse Protection Ass'n v. U.S. Department of Interior, 551 F.2d 434 (D.C. Cir. 1977).

17. Members of the Joint Advisory Board must not be employees of the federal or state government and must

have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. 16 U.S.C. § 1337.

18. Members of the Joint Advisory Board shall receive no compensation except reimbursement for travel and actual expenses connected with their services. Id.

19. SecAg must designate an employee responsible for enforcement of violations of this Act. 16 U.S.C. § 1338(b).

20. SecAg cannot relocate wild, free-roaming horses and burros to areas of the public lands where they do not presently exist. 16 U.S.C. § 1339.

21. SecAg and the Secretary of Interior must submit to Congress a joint report on the administration of the Act, including a summary of enforcement and other actions taken, costs, and recommendations or other actions deemed appropriate. 16 U.S.C. § 1340.

22. SecAg must undertake whatever study SecAg deems necessary of the habits of wild, free-roaming horses and burros necessary to carry out the purposes of the Act. Id.

23. Use of motor vehicles or helicopters must be preceded by a public hearing and directly supervised by SecAg or a duly authorized official or employee. 16 U.S.C. § 1338(a).

24. Use of motor vehicles or helicopters to transport animals must be in accordance with humane procedures prescribed by SecAg. Id.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. SecAg may designate and maintain specific ranges on the public lands as sanctuaries for the protection and preservation of wild, free-roaming horses and burros. 16 U.S.C. § 1333(a).

B. **Management**

1. If a qualified individual has adopted and provided private maintenance for a wild, free-roaming horse or burro under this Act and SecAg determines the individual has provided humane conditions, treatment, and care for the animal or animals for a period of one year, upon application of the transferee SecAg may grant title to not more than four animals to the transferee at the end of the one-year period. 16 U.S.C. § 1333(c).

2. Private landowners may maintain wild, free-roaming horses or burros on private lands or lands leased from the government if the private landowner protects the animal from harassment and the animals were not willfully removed or enticed from the public lands. 16 U.S.C. § 1334.

3. SecAg may enter into cooperative agreement with private landowners or state and local governmental agencies to carry out the Act. 16 U.S.C. § 1336.

4. SecAg may issue necessary regulations to further the purposes of this chapter. Id.

5. SecAg's designated employee may arrest persons committing violations of this Act in employee's presence or pursuant to a duly-issued warrant to enforce the Act. 16 U.S.C. § 1338.

6. Any person arrested for violations of the Act must be taken to a court or appropriate official having jurisdiction for examination or trial. Id.

7. SecAg may use or contract for the use of helicopters or motor vehicles to transport captured animals under the conditions set forth in this section. 16 U.S.C. § 1338(a).

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. Forest Services must cooperate with the BLM for protection and management of wild horses and burros on BLM or jointly administered lands. 36 C.R.F. § 231.11.

2. State and Local Agencies - none

3. Other - none

IV. Authorized Coordination - none

V. Cross-reference to Other Statutes

A. Prosecution of violation and jurisdiction for trials and sentencing are pursuant to 18 U.S.C. § 3401. 16 U.S.C. § 1338.

B. 18 U.S.C. § 47(a) is referred to in 16 U.S.C. § 1338(a).

Note: This Act was amended by the Public Rangelands Improvement Act of 1978 (p. 79), effective October 25, 1978, and those amendments are included above.

Clean Water Act

86 Stat. 816 as amended by 91 Stat. 1566; 33 U.S.C. §§ 1251 et seq., as amended.
October 18, 1972; and December 27, 1977.

Summary

The Clean Water Act is a complex and comprehensive statute that seeks to control or eliminate most point or non-point sources of water pollution in the United States. The point source program is to be implemented through the National Pollutant Discharge Elimination System (NPDES). NPDES permits must be issued for all point sources. Point sources have to achieve both effluent standards set by the EPA based on best practicable technology and best available technology and state-set water quality standards. The permits are to be initially issued by EPA but after a state has met minimum qualifying standards it will be authorized to issue NPDES permits. The non-point source program revolves around state and area-wide planning and management to achieve a reduction in non-point source pollution through the imposition of best management planning practices.

I. Requirements and/or Standards

A. **Planning** – none

B. **Management**

1. All federal properties, facilities, or activities must be in compliance with state, interstate, and local procedural and substantive requirements respecting control and abatement of pollution, including permit requirements and the payment of reasonable service charges. 33 U.S.C. § 1323.

2. The Forest Service must comply with EPA-promulgated effluent standards for silvicultural point sources that are discernible, confined, and discrete conveyances related to rock crushing, gravel washing, log sorting, or log sortage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into navigable waters. 40 C.F.R. § 125.54.

3. Forest Service rock crushing facilities must meet the effluent requirements of 45 mg/l TSS maximum for one day and pH in the range of 6.0 to 9.0 for any one day maximum. 40 C.F.R. § 436.20 et seq.

4. Forest Service log sorting operations must meet the effluent guidelines for log washing operations promulgated by the EPA. 40 C.F.R. § 429.100 et seq.

5. All federal agencies must seek a Corps of Engineers permit for the discharge of dredged or fill material into the navigable waters at specified disposal sites, except for normal silvicultural activities and the construction or maintenance of forest or temporary mining roads. 33 U.S.C. §§ 1313 and 1344.

6. Federal agencies must comply with the best management practice standards developed by state or areawide planning agencies designated under Section 208 of the Act dealing with non-point sources of pollution. 40 C.F.R. § 130.35.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The Forest Service is authorized to cooperate and give support to the state or areawide agency designated for the formulation and implementation of the Section 208 plan. 33 U.S.C. § 1288.

2. This cooperative effort entails both general planning principles where the federal agency has expertise and for regulation of activities upon federal land. 40 C.F.R. § 130.35.

3. Federal agencies are authorized to support and aid Section 208 agency development of best management practices. 33 U.S.C. § 1288, 40 C.F.R. § 130.35.

B. **Management**

1. SecAg with the concurrence of the Administrator of the EPA is authorized to establish and administer a program for entering into contracts with owners and operators of rural land for the attainment of best management practices to control non-point pollution. 33 U.S.C. § 1288(j).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. All agencies having jurisdiction over any facility utilizing federally owned waste water facilities must cooperate with the Administrator of the EPA in developing a coordination disposal or treatment program. 33 U.S.C. § 1323 (D)(1).

2. State and Local Agencies

a. Disputes arising between federal agencies and state or areawide Section 208 agencies affecting the application of or compliance with an applicable requirement for the control or abatement of a non-point source of pollution is to be mediated by the EPA, and if this mediation fails, then the matter will be referred to the Office of Management and Budget for final resolution. Executive Order 11752.

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. The Regional Administrators of the EPA are to act as liaison officers between federal agencies and the state or areawide Section 208 agencies for the purpose of coordinating the substantive planning requirements for federal properties, facilities, or activities.

2. State and Local Agencies

a. The Forest Service is authorized to cooperate and give support to the state or areawide agency designated for the formulation and implementation of the Section 208 plan. 33 U.S.C. § 1288.

3. Other – none

V. Cross-references to Other Statutes – none

Federal Environment Pesticide Control Act of 1972 (FEPCA) and the Federal Pesticide Act of 1978 amending the Federal Insecticide, Fungicide, and Rodenticide Act

86 Stat. 975, 92 Stat. 819; 7 U.S.C. §§ 136–136y, as amended.
October 21, 1972.

Summary

FEPCA supersedes the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which formerly provided the means for registration and control of pesticides. FEPCA expands and elaborates on earlier programs for registration and control of pesticides. It sets forth elaborate procedures for registration, use, and labelling of pesticides and cancellation of registration. It requires certification of persons as applicators of registered pesticides and authorizes state certification programs under certain conditions. The Act prohibits the use, sale, or transportation of unregistered, mislabelled, or otherwise improperly marked pesticides.

Implementation and administration of the Act is delegated to the Environmental Protection Agency. The Forest Service and other agencies can be affected directly by the Act's requirement of use of registered and properly labelled pesticides by properly trained individuals. And in certain instances the EPA is required to consult with SecAg and other federal agencies concerning work under the Act.

The Federal Pesticide Act of 1978 further amended FIFRA to clarify and make types of violations more specific. The Act also elaborated further on the duties and responsibilities of the EPA concerning registration and enforcement of the Act.

I. Requirements and/or Standards

A. **Planning**

1. The EPA Administrator must assure that research undertaken to fulfill the purpose of the Act does not duplicate other research being undertaken by other federal agencies. 7 U.S.C. § 136r.
2. The EPA Administrator must cooperate with SecAg in utilizing the services of the Cooperative state extension services. 7 U.S.C. § 136u.

B. **Management**

1. The EPA Administrator must consult with all interested federal agencies in promulgating regulations prescribing procedures for the disposal or storage of packages and containers of pesticides. 7 U.S.C. § 136q.
2. The EPA Administrator must undertake research to carry out the Act, including research by grant or contracts with other federal agencies, universities, or others deemed essential to fulfill the purposes of the Act. 7 U.S.C. § 136r.
3. The EPA Administrator must solicit the views of SecAg before publishing regulations under the procedures set forth in the Act, including a 30-day period for written comment from SecAg in advance of publication of proposed regulations. 7 U.S.C. §§ 136f and 136w(a).
4. SecAg has 30 days after receipt of EPA proposed, but unsigned, regulations implementing the Act to provide written comment which would be included in the Federal Register with the proposed regulations, and a similar requirement is imposed on the promulgation of final regulations. 7 U.S.C. § 136w(a)(2).
5. The EPA Administrator must publish the proposed and the final regulations and written comments received within the 30-day period from SecAg in the Federal Register. 7 U.S.C. § 136u.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. The EPA Administrator may exempt any federal or state agency from the requirements of the Act if an emergency exists necessitating the exemption. 7 U.S.C. § 136p.
2. The EPA Administrator must consult with SecAg and the governor of a state involved to determine whether an emergency exists justifying an exemption of a federal agency from the provisions of the Act. Id.
3. The EPA Administrator may enter into contracts with federal or state agencies to encourage training of certified applicators. 7 U.S.C. § 136u.
4. The EPA Administrator may utilize the services of the cooperative state extension services to inform farmers of accepted uses and regulations under the Act. Id.

B. **Management**

1. The EPA Administrator may exempt by regulation any pesticide that is adequately regulated by another federal agency. 7 U.S.C. § 136u(b).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies
   a. The EPA Administrator must formulate and periodically revise a national plan for monitoring pesticides in cooperation with other federal, state, and local agencies. 7 U.S.C. § 136r.
   b. A monitoring activity by the EPA must be done in cooperation with other federal, state, and local agencies. Id.
   c. EPA Administrator must solicit the views of SecAg before publishing regulations under the Act. 7 U.S.C. § 136f.
   d. The EPA Administrator must enter into contracts with federal or state agencies to encourage training of certified applicators. 7 U.S.C. § 136u.
2. State and Local Agencies
   a. See III.B.1.a., b., and d.
3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies
   a. The EPA Administrator may utilize the services of the cooperative state extension services to educate farmers of accepted uses and regulations under the Act. 7 U.S.C. § 136u.
2. State and Local Agencies – none
3. Other – none

V. Cross-references to Other Statutes – none

Note: Under NFMA § 1601 (p. 61) SecAg must submit annually to Congress a report on the amount, types, and uses of herbicides and pesticides in the National Forest System including the beneficial or adverse effects of those uses.

SecAg is authorized to enter into cooperative agreements to carry out FEPCA in 7 U.S.C. §§ 450a and 450b. The use of herbicides or pesticides in national forests may constitute major federal action requiring an Environmental Impact Statement under NEPA (p. 147).

Noise Control Act of 1972

86 Stat. 1234; 16 U.S.C. §§ 4901 et seq.
October 27, 1972.

Summary

The Noise Control Act provides a system for measuring and establishing maximum noise level standards to provide a basis for regulations limiting emissions of noise from both transportation and non-transportation sources of noise. The Act also provides for the certification of low noise emitting equipment which is to be given preferential treatment in federal procurement programs. Executive Order 11644 as amended by Executive Order 11989 provides limitations on the use of off-road vehicles due to noise and other environmental factors.

I. Requirements and/or Standards

A. **Planning**

1. SecAg must develop regulations and administrative instructions to provide for the designation of specific areas and trails on public lands on which the use of off-road vehicles was to be permitted. Executive Order 11644.

2. SecAg must designate and locate areas and trails to minimize damage to soil, watershed, vegetation, and other resources. Executive Order 11644.

3. SecAg also must locate trails to minimize harrassment of wildlife and prevent significant disruption of wildlife habitats. Executive Order 11644.

4. SecAg must locate areas and trails to minimize conflict between off-road vehicle use and other existing or proposed recreational uses and to ensure compatibility with such uses in populated areas taking into account noise and other factors. Executive Order 11644.

5. SecAg must promulgate regulations designed to prescribe operating conditions for off-road vehicles for the purpose of protecting resource values and preserving public health safety and welfare. Executive Order 11644.

6. The Forest Service's continuing resource planning process must provide for the designation of specific areas and trails for off-road vehicle use. 36 C.F.R. § 295.1-3.

7. The Forest Service must also consider area closures for off-road vehicles. 36 C.F.R. § 295.1-3.

8. Noise must be considered as a factor to be weighed along with safety, impacts on soil, watershed, and others in relocating off-road vehicles. 36 C.F.R. § 295.3.

B. **Management**

1. All heads of federal agencies must ensure that all facilities under their jurisdiction are designed, constructed, managed, operated, and maintained so as to conform to the federal noise emission standards for products adopted under the Act of 1972 and to any state or local standards for the control and abatement of environmental noise. 42 U.S.C. § 4903, Executive Order 11752.

2. All procuring agencies must purchase certified low emission products to the extent they are available, before they can procure other substitutable products. 42 U.S.C. § 4914.

3. The Forest Service must monitor the effects of off-road vehicle use. 36 C.F.R. § 295.9.

4. Each agency head, after determining that the use of off-road vehicles will cause adverse environmental impacts to an area or trail, must close the area or trail to off-road vehicle use. Executive Order 11939.

II. Authorizations (non-mandatory activities)

A. **Planning**

1. Each agency may develop internal policy on when to close areas or trails for off-road vehicles consonant with the provisions of Executive Order 11644. Executive Order 11939.

B. **Management** - none

III. Mandatory Coordination

A. **Other Statutes** - none

B. **Groups**

1. Federal Agencies

a. The Council on Environmental Quality shall maintain a review of each agency's implementation of Executive Order 11644.

b. Each federal agency must consult with the Administrator of the EPA in prescribing standards or regulations respecting noise. 42 U.S.C. § 4904(c).

2. State and Local Agencies - none

3. Other

a. The Forest Service must allow the public to participate in any decision dealing with the designation of areas and trails related to off-road vehicle use, except in an emergency. 36 C.F.R. § 295.4.

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Coastal Zone Management Act of 1972

86 Stat. 1280; 16 U.S.C. §§ 1451–1464, as amended. October 27, 1972.

Summary

The purpose of the Coastal Zone Management Act of 1972 (CZMA) is to develop a national policy to preserve, protect, develop, and where possible restore or enhance the resources of the nation's coastal zones. The Act provides the coastal states with grants and assistance to develop and implement state coastal zone management programs that give full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development. Coastal states are also provided with financial assistance to alleviate problems resulting from new or expanded energy activity affecting their coastal zones. The CZMA also provides that federal agencies shall cooperate with state and local governments in developing and implementing coastal zone management programs.

I. Requirements and/or Standards

A. **Planning** – none

B. **Management**

1. Federal agencies conducting or supporting activities that directly affect the coastal zone of a state must conduct or support the activities in a manner which is, to the maximum extent practicable, consistent with the state's coastal zone management program if that program has been approved by the Secretary of Commerce. 16 U.S.C. § 1456(c)(1).

2. After a state management program has been approved by the Secretary of Commerce no license or permit for an activity that will affect the coastal zone of that state shall be granted by a federal agency until the state or its designated agency has approved the applicant's certification that the activity complies with the state's management program and will be conducted in a manner consistent with the program. 16 U.S.C. § 1456(c)(3)(A).

II. Authorizations (non-mandatory activities) – none

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. The Secretary of Commerce must consult and cooperate with and, to the maximum extent practicable, coordinate the Secretary of Commerce's activities under the CZMA with other federal agencies. 16 U.S.C. § 1456(a).

b. The Secretary of Commerce shall not approve any state coastal zone management program without first adequately considering the views of principally affected federal agencies. 16 U.S.C. § 1456(b).

c. The Secretary of Commerce must obtain the concurrence of the federal official designated to administer any national land use program prior to approving any state coastal zone management program that affects inland areas subject to the national land use program. 16 U.S.C. § 1456(g).

2. State and Local Agencies

a. The coastal states must provide for full participation by federal agencies in the development of the states' coastal zone management programs. 16 U.S.C. § 1455(c)(1).

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Federal agencies affected by proposed state management programs may provide their views on the proposed programs to the Secretary of Commerce for the Secretary's consideration prior to approving the programs. 16 U.S.C. § 1456(b).

b. Interested federal agencies may consult with the Secretary of Commerce to coordinate their activities with the Secretary's CZMA activities. 16 U.S.C. § 1456(a).

2. State and Local Agencies

a. Federal agencies may participate with the coastal states in developing their coastal zone management programs. 16 U.S.C. § 1455(c)(1).

b. Where federally owned lands are a part of or adjacent to the area proposed as an estuarine sanctuary by a state, or where the control of land and water uses on such lands is necessary to protect the natural system within the sanctuary, the state should contact the federal agency maintaining control of the land to request cooperation in providing coordinated management policies, and if the use or control of federally-owned land does not conflict with the federal use of state lands, cooperation and coordination are encouraged to the maximum extent feasible. 16 U.S.C. § 1461; 15 C.F.R. § 921.13.

V. Cross-references to Other Statutes

A. Nothing in the CZMA shall be construed as superseding, modifying, or repealing existing laws applicable to federal agencies. 16 U.S.C. § 1456(e)(2).

B. Nothing in the CZMA shall in any way affect any requirement established by the Clean Water Act (p. 153), the Clean Air Act (p. 149), or those established by the federal government or by any state or local government pursuant to those Acts. 16 U.S.C. § 1456(f).

Endangered Species Act of 1973

87 Stat. 884 as amended by 92 Stat. 3751 and 93 Stat. 1225; 16 U.S.C. §§ 1531–1540, as amended.
December 28, 1973; November 10, 1978; and December 28, 1979.

Summary

This Act provides the means by which plants and animal species are protected from extinction. The Act authorizes the Secretary of Interior to prepare a list of species which are endangered or threatened with extinction from all sources. The listed species are then preserved by the Act's requirements on all agencies to plan all activities with effort to conserve the listed species and protect their habitat. The Act also prohibits the use, sale, or transportation of any of the listed species. The Act repealed the earlier Endangered Species Conservation Act of 1969.

The Endangered Species Act Amendments of 1978 added a requirement of a biological assessment on certain projects, clarified the definition of critical habitat, and added provisions authorizing exemptions from the § 1536 duties under certain circumstances. The 1978 Amendments created the Endangered Species Committee which ultimately reviews and approves or disapproves applications for exemptions.

I. Requirements and/or Standards

A. **Planning**

1. All federal agencies must consult with and obtain the assistance of the Secretary of Interior in carrying out the purposes of the Act. 16 U.S.C. § 1536.

2. All federal agencies must use existing authority to further the purposes of this Act by undertaking conservation programs of endangered or threatened species. Id.

3. All federal agencies must use existing authorities to further the purposes of the Act by assuring that any action it takes, funds, or licenses will not jeopardize a threatened or endangered species nor cause the destruction or modifications of a critical habitat. Id.

4. SecAg is a member of the Endangered Species Committee which is responsible for granting or denying exemption. 16 U.S.C. § 1536(e).

B. **Management**

1. A federal agency must take conservation steps and measures to avoid harm to critical habitats or ongoing projects or whenever the threat to an endangered species or its habitat becomes known. Tennessee Valley Authority v. Hill, 437 U.S. 153 (1978).

2. Preservation of endangered species in critical habitats has priority over all other considerations, including economic or technological ones, in halting a project to undertake appropriate action to protect and preserve the endangered species and its critical habitat, unless an exemption is granted by the Endangered Species Committee. Id. 16 U.S.C. § 1536.

3. Heads of federal agencies must prevent the field use of any chemical toxicant to kill a predatory animal or bird or which causes secondary poisoning effects to kill mammals, birds, or reptiles on federal lands under their jurisdiction. Executive Order 11643 as amended by Executive Orders 11870 and 11917.

4. For projects on which a construction contract has not been made or construction commenced on November 10, 1978, if the Secretary of Interior informs the responsible federal agency that a listed species may be located in the project area, the federal agency must conduct a biological assessment to identify the endangered or threatened species that may be affected by the project. 16 U.S.C. § 1536(c).

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. The head of a federal agency which issued a license, lease, permit, or otherwise authorized use of federal lands to a person convicted of a criminal violation of the Act may immediately modify, suspend, or revoke the permission granted. 16 U.S.C. § 1540(b).

2. The United States shall not be liable for compensation, reimbursement or damages in connection with any modification, suspension, or revocation of permission granted a person convicted of violating the Act. Id.

3. Chemical toxicants can be used on federal lands only in emergency situations preceded by a finding by the head of the agency that there is no alternative to the use of the toxicant and its use is essential for the health and safety of human life or for the preservation of one or more threatened species or to prevent substantial irretrievable damage to nationally significant natural resources. Id.

4. Sodium cyanide can never be used in areas where threatened or endangered species might be adversely affected. Id.

5. Federal agencies may authorize use of sodium cyanide on an experimental basis to control coyote and other predatory mammal or bird damage on federal lands or in a federal program if it is used in accordance with applicable safety regulations and for a period not exceeding one year. Executive Order 11643 as amended by Executive Orders 11870 and 11917.

6. The Endangered Species Committee determines whether to grant an exemption application and what terms and conditions, including mitigation measures, to minimize harm to a threatened or endangered species, must be required on the project. 16 U.S.C. § 1536(h).

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. The Secretary of Interior must consult with interested groups including interested federal agencies in making determinations of endangered and threatened species. 16 U.S.C. § 1533.

b. All federal agencies must consult and cooperate with the Secretary of Interior in carrying out the purposes of the Act. 16 U.S.C. § 1536.

2. State and Local Agencies – none

3. Other – none

IV. Authorized Coordination

A. **Other Statutes**

1. The Secretary of Interior may set up conservation programs utilizing the Fish and Wildlife Act of 1956, Fish and Wildlife Coordination Act, and the Migratory Bird Conservation Act to acquire land to carry out the purposes of this Act. 16 U.S.C. § 1534.

2. The Secretary of Interior may utilize funds under the Land and Water Conservation Fund Act of 1965 to acquire land or interests in land and waters to carry out the purposes of this Act. Id.

B. **Groups** – none

V. Cross-references to Other Statutes

A. The Fish and Wildlife Act of 1956, the Fish and Wildlife Coordination Act, the Migratory Bird Conservation Act, and the Land and Water Conservation Fund Act of 1965 are referred to in 16 U.S.C. § 1534.

Safe Drinking Water Act

88 Stat. 1661; 42 U.S.C. §§ 300f-300j-9, as amended. December 16, 1974.

Summary

The Act authorizes the Administrator of the Environmental Protection Agency to establish national primary and secondary drinking water regulations for public water systems. The regulations will set maximum contaminant levels for all contaminants which may have an adverse impact on the public health.

I. Requirements and/or Standards

A. **Planning** - none

B. **Management**

1. All federal agencies having jurisdiction over any federally owned or maintained public water system or engaged in any activity which results or may result in underground injection which endangers drinking water must comply with all federal, state, and local requirements including recordkeeping or permit applications. 42 U.S.C. § 300j-6.

2. A "public water system" to which the Act applies is defined as having at least 15 service connections or regularly serving at least 25 individuals. 42 U.S.C. § 300f-4.

3. The Act does not apply to a public water system which (1) consists of only distribution and storage facilities, (2) obtains water from a system to which the regulations apply, or (3) does not sell water. 42 U.S.C. § 300g.

4. The Forest Service must meet the national interim primary drinking water regulations promulgated by the Administrator which specify maximum contaminant levels for inorganic chemicals, organic chemicals, turbidity, and microbiological contaminants. 42 U.S.C. § 300g-1, 40 C.F.R. §§ 141.11-141.14.

5. The Forest Service must monitor drinking water for the regulated contaminants. 40 C.F.R. §§ 141.21-141.29.

6. The Forest Service must provide records and allow inspections as required by the Administrator or the state enforcement agency. 42 U.S.C. § 300j-4.

7. All public water systems must notify users if they are in violation of the EPA regulations. 42 U.S.C. § 300g-3.

II. Authorizations (non-mandatory activities)

A. **Planning** - none

B. **Management**

1. The Forest Service may apply to the state for variance from the national primary regulations if it cannot meet the minimum standards after application of the best technology generally available if no unreasonable risk is caused to the public health. 42 U.S.C. § 300g-4.

2. The Forest Service may apply for an exemption from the state if due to compelling factors, including economic hardship, the maximum contaminant levels are not achieved and no unreasonable risk to the public health is caused. 42 U.S.C. § 300g-5.

3. If the Forest Service does not have adequate supplies of chemicals necessary to treat a public water system, the Forest Service may apply to the Environmental Protection Agency for "certification of need," which will avoid an enforcement action. 16 U.S.C. § 300j(a).

III. Mandatory Coordination - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes - none

Solid Waste Disposal Act and Resource Conservation and Recovery Act of 1976

79 Stat. 997; 42 U.S.C. §§ 3251 et seq., as reenacted and recodified by 90 Stat. 2796; 42 U.S.C. §§ 6901 et seq. October 20, 1965; and October 21, 1976.

Summary

The Act recognizes the national problem in solid waste disposal and institutes federal action in the solid waste field through financial and technical assistance in the development of waste disposal methods and resource conservation programs.

The Act attempts to provide technical and financial assistance to state and local governments in the form of grants and research and development programs. The Act establishes guidelines to regulate the procedures for solid waste disposal, with particular attention given to the proper disposal of hazardous wastes. The Act encourages cooperation among federal, state, and local governments to recover valuable materials and energy from solid waste.

I. Requirements and/or Standards

A. **Planning** – none

B. **Management**

1. Each federal department or agency having jurisdiction over a solid waste management facility or disposal site or engaged in activities that result or may result in solid or hazardous waste must comply with all federal, state, interstate, and local substantive and procedural statutes or rules respecting control and abatement of solid waste. 42 U.S.C. § 6961.

2. Each federal agency must comply with the EPA regulations to be promulgated concerning: (a) lists of hazardous wastes, (b) minimum standards for generators of hazardous wastes, (c) minimum standards for transporters of hazardous wastes, (d) minimum standards for owners or operators of hazardous waste treatment, storage, and disposal facilities, and (e) permit systems for hazardous wastes. 42 U.S.C. §§ 6921–25.

3. All procuring agencies making a procurement over $10,000 must utilize recycled material as much as practicable. 42 U.S.C. § 6962.

4. Each federal agency operating a thermal processing facility with a capacity of 50 tons/day of municipal-type solid waste must meet EPA design and operation standards for site location, air quality, water quality, residue, and vector control. 40 C.F.R. § 240.100.

5. Each federal agency must meet EPA standards for land disposal of solid wastes. 40 C.F.R. § 241.100.

6. Each federal agency must comply with collection and storage requirements set by the EPA. 40 C.F.R. § 243.100.

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. Federal agencies may recommend and utilize procedures for the recovery by means of source separation of solid waste. 40 C.F.R. § 246.100.

2. Federal agencies are encouraged to meet recommended procedures to increase the use of recycled material in property purchased by federal agencies. 40 C.F.R. § 247.

III. Mandatory Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. Each federal agency having functions related to solid waste must cooperate with the Administrator of the EPA to the maximum extent permitted by law. 42 U.S.C. § 6963.

2. State and Local Agencies – none

3. Other – none

IV. Authorized Coordination

A. **Other Statutes** – none

B. **Groups**

1. Federal Agencies

a. The Administrator may consult with any federal agency before preparing solid waste disposal guidelines. 42 U.S.C. § 6907.

2. State and Local Agencies – none

3. Other – none

V. Cross-references to Other Statutes

A. The Act does not apply to activities that are regulated under the Clean Water Act (p. 153), the Safe Drinking Water Act (p. 163), the Marine Protection, Research, and Sanctuary Act, 16 U.S.C. § 1431 et seq., or the Atomic Energy Act, 42 U.S.C. §§ 201 et seq. 42 U.S.C. § 6905.

Surface Mining Control and Reclamation Act of 1977

91 Stat. 447; 30 U.S.C. §§ 1201 et seq., as amended. August 3, 1977.

Summary

The Act expresses the congressional policy of protecting society and the environment from the adverse effects of surface coal mining operations. The purpose is to provide protection for the environment by assuring reclamation of surface mine areas. The Act also requires national standards be established regulating surface mining operations. Prime agricultural lands and environmentally sensitive areas are protected from any surface mining operations.

The purposes of the Act are implemented through a state enforcement program or, if a state does not adopt one, a federal program. The national standards and review and approval of state programs are conducted by the Office of Surface Mining Reclamation and Enforcement created by the Act in the Department of Interior. The Act is analyzed only insofar as it applies to federal agencies and federal lands.

I. Requirements and/or Standards

A. **Planning**

1. The Secretary of Interior must conduct a federal lands program that will be applicable to all federal lands regardless of how acquired or under whose jurisdiction and that will require application of the environmental standards for strip mining set forth in the Act, in applicable regulations or in an approved state program, taking into consideration the diverse physical, climatological, and other unique characteristics of the federal lands involved. 30 U.S.C. § 1273.

2. Every mineral lease, permit, or contract for surface mining on federal lands must incorporate by reference the requirements of the federal lands program, this Act, and an applicable approved state program concerning surface mining operations and reclamation. Id.

3. The Secretary of Interior must conduct a review of federal lands to determine which are unsuitable for all or certain types of surface coal mining operations. 30 U.S.C. § 1272.

4. If the Secretary of Interior determines that federal lands are unsuitable for all or certain types of surface coal mining operations, the Secretary of Interior must withdraw the area or impose necessary conditions on any permission through lease or entry so as to limit surface mining operations on those lands. Id.

5. After August 3, 1977, and subject to pre-existing rights, no surface coal mining operation shall be permitted on any federal lands within a national forest unless the Secretary of Interior finds that there are no significant recreational, timber, economic, or other values which may be incompatible with the surface mining operations and (a) the operations are incidental to an underground coal mine or (b) SecAg determines for lands not having significant forest cover on forests west of the 100th meridian that the surface mining is in compliance with the Multiple-Use Sustained-Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and the provisions of this Act. 30 U.S.C. § 1272(e).

6. After August 3, 1977, and subject to valid existing rights, no surface coal mining operations shall be permitted on any lands within the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, and the Wild and Scenic Rivers System, including study rivers, and national recreation areas. Id.

B. **Management**

1. The requirements of this Act, of the federal lands program, or of an approved state program for state regulation of surface coal mining on federal lands must be incorporated by reference or otherwise in a federal mineral lease, permit, or contract issued by the Secretary of Interior which may involve surface coal mining and reclamation operations. 30 U.S.C. § 1273(b).

2. Each federal or state governmental unit or agency proposing to engage in surface mining operations subject to the requirements of this Act must comply with the performance standards and other provisions of subchapter V of this Act. 30 U.S.C. § 1274.

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. The head of a federal agency may file written objections and be heard in opposition to an initial or revised application for a surface mining permit from the regulatory authority. 30 U.S.C. § 1263.

2. The head of a federal agency may object to the release of a performance or reclamation bond required under this Act through written objections to the regulatory authority 30 days after the notice of a request for total or partial release of the bond. 30 U.S.C. § 1269(f).

3. No surface coal mining operations may be allowed within the Custer National Forest. 30 U.S.C. § 1272(e).

III. Mandatory Coordination

A. **Other Statutes**

1. A permit for surface coal mining operations in national forests must be preceded by a finding by SecAg that it is in compliance with the Multiple-Use Sustained-Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and the provisions of this Act. 30 U.S.C. § 1272.

B. **Groups**

1. Federal Agencies

a. The Secretary of Interior must consult with other federal agencies having expertise in the control and reclamation of surface mining operations. 30 U.S.C. § 1211.

b. The Secretary of Interior must cooperate with other federal agencies to minimize duplication of inspections, enforcement, and administration of this Act. Id.

c. The Secretary of Interior must monitor all federal research programs dealing with coal extraction and use for appropriate recommendations to Congress regarding research and demonstration projects. Id.

d. All federal agencies must cooperate with the Secretary of Interior by providing technical expertise, personnel, equipment, materials, and supplies to implement and administer the provisions of the abandoned mine reclamation subchapter of this Act. 30 U.S.C. § 1243.

2. State and Local Agencies – none

3. Other – none

IV. Authorized Coordination – none

V. Cross-references to Other Statutes

A. The Multiple-Use Sustained-Yield Act of 1960 (p. 39), the Federal Coal Leasing Amendments Act of 1975 (p. 111), and the National Forest Management Act of 1976 (p. 61) are referred to in 30 U.S.C. § 1272.

Archaeological Resources Protection Act of 1979

93 Stat. 721; 16 U.S.C. §§ 470aa et seq.
October 31, 1979.

Summary

This Act is intended to protect archaeological and cultural resources on public lands and Indian lands. The congressional purpose is to prevent loss or destruction of those resources and sites from destruction, pillage, and commercial exploitation. The Act establishes a permit system for excavation and removal of archaeological resources from public or Indian lands. The system is administered by the federal land manager for the lands on which the resource or site is located. Public lands to which the Act applies include the national forest system.

I. Requirements and/or Standards

A. **Planning**

1. A permit is required for the excavation or removal of archaeological resources from Indian or public lands. 16 U.S.C. § 470cc.

2. The Secretaries of Interior, Agriculture, and Defense, and the Chairman of the Board of the Tennessee Valley Authority must issue uniform regulations in consultation with other federal land managers, Indian tribes, and concerned individuals, that are necessary to implement this Act. These uniform regulations must include requirements for an excavation and removal permit. 16 U.S.C. § 470ii.

3. An excavation and removal permit application must contain the information required by the uniform regulations and other information such as the time, scope, location, and purpose of the work that the federal land manager considers necessary. 16 U.S.C. § 470cc.

4. Federal land managers must issue rules and regulations consistent with the uniform regulations under paragraph 3 above to carry out their functions under this Act. 16 U.S.C. § 470ii(b).

B. **Management**

1. An application for a permit to excavate or remove archaeological resources from public or Indian lands must be required by federal land managers. 16 U.S.C. § 470ee(a).

2. An excavation or removal permit issued by a federal land manager must be consistent with the uniform regulations under this Act and other necessary conditions to meet the purpose of the Act. 16 U.S.C. § 470cc(d).

3. The federal land manager must notify the affected Indian tribe of any harm or destruction to religious or cultural sites that may result from issuance of a permit. 16 U.S.C. § 470cc(c).

4. An excavation or removal permit must identify the individual responsible for carrying out its terms and conditions. 16 U.S.C. § 470cc(e).

II. Authorizations (non-mandatory activities)

A. **Planning** – none

B. **Management**

1. The federal land manager may issue an excavation or removal permit if the applicant (a) qualified to carry out the permitted activity, (b) the activity is done to further archaeological knowledge in the public interest, (c) the archaeological resources will remain the property of the U.S. and the resources or copies will be preserved by a suitable scientific or educational institution, and (d) the activity permitted is not inconsistent with any management plan applicable to the lands. 16 U.S.C. § 470cc(b).

2. A federal land manager may suspend a permit of a permittee who violates §§ 470ee(a), (b), or (c) and may revoke the permit of a permittee who is assessed a civil penalty or convicted of a violation of § 470ee of the Act. 16 U.S.C. § 470cc(f).

3. A permit under this Act supersedes any permit required by the Antiquities Act of 1906 (p. 133), and any permit previously issued under the 1906 Act remains in effect and the permitted activity does not require a permit under this Act. 16 U.S.C. § 470cc(h).

4. The federal land manager may assess civil penalties for violations of this Act after appropriate notice and opportunity for a hearing concerning the violation. 16 U.S.C. § 470ff(a).

III. Mandatory Coordination

A. **Other Statutes**

1. Permits under this Act and the Antiquities Act of 1906 must be consistent. 16 U.S.C. § 470cc(h).

B. **Groups**

1. Federal and State Agencies

a. The Secretaries of Interior, Agriculture, and Defense, and the Chairman of the Board of the TVA must issue uniform regulations to implement this Act in consultation with other federal land managers, Indian tribes, and concerned state agencies. 16 U.S.C. § 470ii.

b. Upon written request of a governor, the federal land manager must issue a permit to a state or its educational institutions in accordance with the Act. 16 U.S.C. § 470cc(j).

2. Other

a. The Secretary of Interior must encourage cooperation, communication, and exchange concerning archaeological resources among the federal agencies, federal land managers, and state agencies and private individuals. 16 U.S.C. § 470jj.

IV. Authorized Coordination – none

V. Cross-references to Other Statutes

A. The Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601 et seq. in 16 U.S.C. § 470bb(5).

B. The Antiquities Act of 1906, 16 U.S.C. §§ 431 et seq. (p. 133) in 16 U.S.C. § 470cc(h).

C. 5 U.S.C. § 554 in 16 U.S.C. § 470ff(c).

D. 16 U.S.C. §§ 469–469c and 16 U.S.C. §§ 431–33 in 16 U.S.C. § 470dd(2) and § 470hh(a)(1).

Alaska National Interest Lands Conservation Act

Pub. L. No. 96-487, 94 Stat. 2371; to be codified at 16 U.S.C. §§ 3101 et seq.
December 2, 1980.

Summary

This Act is intended to be the last comprehensive treatment by Congress of the Alaskan lands issues. The Act settles competing claims of various parties, including the State of Alaska, Native Americans, and private individuals under various statutes. For example, the Act settles the conflicting land claims by the State of Alaska under the Statehood Act and other federal laws and by Native Americans under the Alaska Native Claims Settlement Act (p. 87).

A stated congressional objective was to preserve the scenic, cultural, archaeological, historic, and related conservation values for the benefit of present and future generations. The Act also was intended to be the last action by Congress to examine and set aside public lands in Alaska for conservation or other purposes.

The Act is a major conservation measure with respect to Alaskan lands, "Conservation system units" are created by the Act and provided special protection under it. A conservation system unit is "any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System or a National Forest Monument, including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter." (§ 102, to be codified at 16 U.S.C. § 3102.)

Many of the new conservation system units or additions or expansions of existing units are under the jurisdiction of the Department of Interior. However, the Act did expand the Chugach National Forest and the Tongass National Forest.

In addition, the Act also created new wilderness areas in national forests. It also made final as to NFS lands in Alaska the RARE II Wilderness Study. Special provisions are included concerning management to conserve the areas, existing habitats, fish and wildlife, and bays and estuaries. Specific provisions are also included to regulate mining and other activities in national forests in Alaska and access for development on NFS lands in Alaska.

The major provisions of this Act affecting the Forest Service include those expanding existing national forests, creating new national monuments within national forests, and creating new wilderness areas and wilderness study areas in national forests. The Act also contained provisions for regulating timber and mining activities and for protecting fish and wildlife and fisheries on NFS lands.

All provisions of the Act are limited to Alaskan lands. References below are to sections of Public Law No. 96-487.

I. Requirements and/or Standards

A. **Planning**

1. The Chugach National Forest is expanded by adding four areas: Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay. § 501(a).

2. The Tongass National Forest is expanded by adding the Kates Needle, Juneau Icefill, and Brabazon Range areas. Id.

3. The Misty Fjord National Monument is established within the Tongass National Forest. § 503(a).

4. The Admiralty Island National Monument is established within the Tongass National Forest. § 503(b).

5. The Misty Fjord and Admiralty Island National Monuments must be managed by SecAg as units of the NFS to protect objects of ecological, cultural, geological, historical, prehistorical, and scientific interest. § 503(c).

6. The receipts from disposable non-leasable minerals under § 502 must be paid into the same fund and distributed in the same manner as receipts from national forests. § 502.

7. SecAg must not allow any timber harvest sale within the Admiralty Island and Misty Fjord National Monuments. § 503(d).

8. Subject to valid existing rights, lands within the Admiralty Island and Misty Fjord National Monuments are withdrawn from all forms of entry or appropriation or disposal under the public land laws, including location, entry, and patent, under the U.S. mining laws, disposition under the Minerals Leasing Law, and future selection by the State of Alaska and native corporations. § 503(f)(1).

9. SecAg must issue reasonable regulations for mining activities by the holder of any valid mining claim on public lands located within the Misty Fjord and Admiralty Island National Monuments, and any activities done must be compatible with the purposes for which the national monuments were established. § 503(f)(2)(A).

10. Within four months after publication of the § 503(h)(3) access road final EIS, SecAg must complete "any admimistrative review on the proposal covered by the EIS and must issue a special use permit to the applicant for a surface access road for bulk sampling unless SecAg determines the construction or use of such a road would cause an unreasonable risk of significant irreparable damage to the habitats of viable populations of fish management indicator species and the continued productivity of such habitats." § 503(h)(4)(A).

11. If the applicant seeks judicial review of the denial of a permit for the surface access road, SecAg has the burden of proof on the issue of denying the permit. Id.

12. SecAg cannot issue the surface access road special use permit until SecAg determines that the full field season of work for gathering baseline data during 1981 has ended. § 503(h)(4)(B).

13. SecAg must issue reasonable regulations "to maintain the habitat, to the maximum extent feasible, of anadromous fish and other food fish and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national forest lands in Alaska." § 505(a).

14. SecAg must "establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist them in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized." § 705(b)(1).

15. SecAg must, by December 2, 1983, transmit to the Senate and House of Representatives a study of opportunities to increase timber yields on national forest lands in Alaska. § 705(c).

16. SecAg must monitor timber supply and demand in Southeast Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives; this report must indicate whether the 4,500 million board feet measure per decade rate in the Tongass National Forest has been maintained. § 706(a).

17. SecAg must, by December 2, 1985, and every two years thereafter, report to Congress on the status of the Tongass National Forest and the report must include the "timber harvest levels, the impact of wilderness designation on timber, fishing, and tourism industries in Southeast Alaska, measures instituted by the Forest Service to protect fish and wildlife, and the status of small business set-aside programs in the Tongass National Forest." § 706(b).

18. Before June 1, 1981, "Chugach Natives, Incorporated, shall be entitled to select public lands not reserved for purposes other than National Forests from within the Chugach Region under section 14(h)(9) of the Alaska Native Claims Settlement Act [ANCSA] from within the boundaries of the Chugach National Forest." § 1429(a).

19. SecAg must review and adjudicate the selections by Chugach Natives, Incorporated, as if the lands were available and the selections timely made under section § 14(h)(8) of ANCSA. Id.

20. SecAg, the Secretary of Interior, the Alaska Land Use Council, the Chugach Natives, Incorporated, and the State of Alaska, if it chooses to participate, must conduct a study of the land ownership and use patterns in the Chugach Region for the following purposes: (1) to identify NFS lands which could be available for exchange under section 1302(h) to the Chugach Natives, Incorporated; (2) to consolidate land ownership patterns in the Chugach region; (3) to improve the boundaries of and identify new conservation system units; (4) to obtain a fair and just land settlement for the Chugach people; and (5) to otherwise fulfill the purposes and intent of ANSCA for the Chugach Natives, Incorporated. § 1430(a).

21. The Chugach Region Study must identify in-region and out-of-region lands, including lands in the Chugach National Forest and State lands, but excluding private holdings, that may be available to use to meet the Chugach Natives, Incorporated, entitlement under section 12(c) of ANSCA, and the study may consider monetary payment in lieu of land as well as all other options that the study participants deem appropriate to meet the objectives of this Act. Id.

22. Lands selected to meet the Chugach Region Study objectives must, to the maximum extent possible, be similar in kind and character to those traditionally used and occupied by the Chugach people, be accessible by coast, and be economically viable. § 1430(b).

B. **Management**

1. The Forest Service must recognize valid existing rights in any additions to national forests in Alaska. § 501(b).

2. Additions to national forests in Alaska must be managed according to the laws, rules, and regulations applicable to the NFS generally; except that conservation of fish and wildlife and their habitats shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River/Bering River portion of the existing Chugach National Forest. Id.

3. The Forest Service must establish zones within which fish and wildlife may be taken subject to the provisions of this Act and applicable state and federal law. § 501(b).

4. SecAg must promulgate special regulations that permit multiple use activities in a manner consistent with the conservation of fish and wildlife and their habitat. Id.

5. Subject to valid existing rights, minerals in public lands within the Copper River addition to the Chugach National Forest are withdrawn from location, entry, and patent under the general mining laws. § 502.

6. Rights-of-way over the public lands within the Misty Fjord and Admiralty Island National Monuments must be granted according to the provisions of § 1106(b) of this Act. § 503(e).

7. SecAg must prepare a mining development analysis document that studies the concepts prepared by the United States Borax and Chemical Corporation on the proposed development of the molybdenum mine in the Quartz Hill area of the Tongass National Forest. § 503(h)2().

8. SecAg must prepare and make available to the public the draft mining development analysis by June 2, 1981. Id.

9. The federal mining development analysis must be completed by September 2, 1981, and its results must be made available to the public. Id.

10. The mining development analysis document must contain detailed discussion of (a) the concepts under consideration for mining development; (b) the general foreseeable potential environmental impacts of the concept and studies which are likely to be needed to evaluate and otherwise address those impacts; and (c) the likely surface access needs and routes for each mine development concept. Id.

11. By December 2, 1981, SecAg must prepare an environmental impact statement for the access road for bulk sampling purposes and the bulk sampling stage proposed by the United States Borax and Chemical Corporation in the Quartz Hill area. § 503(h)(3).

12. The EIS must evaluate alternative surface routes and the impacts of alternatives on fish, wildlife, and their habitat, consider ways to avoid or minimize negative impacts and enhance positive ones, and evaluate alternatives and their effect on fish hatcheries and other fishery values in the affected area. Id.

13. "On application of the United States Borax and Chemical Corporation or its successors and interests, the Secretary shall permit the use by such applicant to such limited areas within the Misty Fjord National Monument Wilderness as the Secretary determines to be necessary for activities, including but not limited to the installation, maintenance, and use of navigation aids, docking facilities, and staging and transfer facilities, associated with the development of the mineral deposit at Quartz Hill," but not including mineral extraction, milling, or processing. § 503(h)(6).

14. SecAg must issue reasonable regulations that protect the values of the monument wilderness from the permitted activities at Quartz Hill. Id.

15. SecAg must issue holders of valid mining claims a lease for NFS lands at fair market value for mining or milling purposes of the mineral deposits at Quartz Hill and Greens Creek in the Tongass National Forest if SecAg determines that (a) necessary milling activities cannot be carried out on applicant's land, (b) use of the site being leased will not cause irreparable harm to the national monument, and (c) use of the leased area will cause the least environmental harm of the use of any other reasonably available area. § 503(i)(1).

16. Lease of lands within the Tongass National Forest for milling purposes are limited to those areas SecAg deems necessary for the milling process for minerals on the claims. Id.

17. A lease for milling purposes on national monument lands and on deposits at Quartz Hill and Greens Creek in the Tongass National Forest must terminate whenever the mineral deposit is exhausted or if the lessee does not use the leased land for two consecutive years without waiver of the period by SecAg. § § 503(i)(3) and 504(f)(4).

18. SecAg must issue an exploration permit to a holder of an unperfected mining claim within the Misty Fjord or Admiralty Island National Monuments if (a) the holder of the permit applies before September 2, 1981, (b) the unperfected claim is within three-quarters of a mile of a core claim, and both claims are held by the applicant, and (c) both claims have been located, recorded, and maintained as required by law. § 504(c).

19. Each exploration permit for an unperfected claim must terminate five years after the date of the Act or five years plus any time the Secretary improperly delays in granting the permit. Id.

20. Any exploration permit for an unperfected claim must be subject to reasonable terms and conditions imposed by the Secretary. Id.

21. Within eighteen months of receiving an application SecAg must issue an exploration permit for an unperfected mineral claim on a national monument if the application identifies the claimant, the claim, its location, and the applicant's title to the unperfected claim and the core claim. § 504(d).

22. If the holder of an exploration permit makes a valid mineral discovery, the holder is entitled to a patent and the right to use the surface for mining and milling purposes subject to reasonable regulations imposed by SecAg that would apply to mining and milling activities generally in the NFS. § 504(e).

23. Any unperfected claim for which an exploration permit has been granted is conclusively presumed forfeited, abandoned, and void upon the expiration of the permit unless a valid mineral discovery is made and the owner has so notified SecAg. Id.

24. SecAg's regulations concerning mining operations in the Quartz Hill area of the Tongass National Forest must include a requirement that all mining operations involving significant surface disturbance be conducted in accordance with an approved plan. § 505(b).

25. To be approved, SecAg must determine that the plan of mining operations adequately evaluates the effect of the activities on water quality, fish and wildlife, their habitats, and other fishery values, as well as the risks and benefits of the activities on fish, their habitat, and other fishery values. Id.

26. The approved plan of operations must be reviewed annually. Id.

27. SecAg must require modification of an approved plan to eliminate and mitigate harmful effects of activities once those effects have been established. § 505(b).

28. Several wilderness areas are created within the Tongass National Forest. § 703(a).

29. A wilderness study area is created in the Chugach National Forest. § 704(1)(a).

30. SecAg must make available at least $40 million annually or whatever SecAg determines necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500 million foot board measure per decade. § 705(a).

31. The wilderness areas and wilderness study areas must be administered according to the applicable provisions of the Wilderness Act. § 707.

32. The Forest Service does not have to maintain areas designated non-wilderness or for further study in the RARE II final EIS to protect their suitability for wilderness designation. § 708(b)(3).

33. USDA must not conduct any statewide roadless area review or evaluation of NFS lands in Alaska for the purpose of determining their suitability for designation as wilderness unless expressly authorized to do so by Congress. § 708(b)(4).

34. Within two months after receipt of a consolidated application form for a right-of-way, the federal agency must notify the applicant that the form does or does not contain the information required under the Act or regulations governing the agency. § 1104(d).

35. The agency must notify the applicant of additional information that is necessary and allow thirty days for receiving it. § 1104(d)(2).

36. Within four months after receipt of a final EIS on a transportation or utility system, the federal agency must decide to approve or disapprove the application according to applicable law. § 1104(g).

37. SecAg must convey the lands selected pursuant to section 1429(a) unless they overlap selections by the State of Alaska under the Alaska Statehood Act. § 1429(c).

38. Before conveyance, any lands selected by the Chugach Natives, Incorporated, under the Chugach Region Study or implementing legislation shall be administered by SecAg according to applicable rules and regulations, and the authority to make contracts or grant leases, permits, rights-of-way and easements shall not be affected by the withdrawal of the land for purposes of the exchange, except that SecAg may not make any contract or permit any use without first consulting Chugach Natives, Incorporated. § 1430(f)(3).

39. "Any lands irrevocably selected by Chugach Natives, Incorporated, shall not be subject to any contract, lease, permit, right-of-way or easement without the prior consent of Chugach Natives, Incorporated." Id.

II. Authorizations (non-mandatory activities)

A. Planning

1. To the extent SecAg deems necessary, SecAg should allow salvage, cleanup, and other activities relating to developing a mineral deposit at Quartz Hill, including activities necessary because of emergency conditions. § 503(g)(7).

2. A lease for milling purposes on national monument lands is subject to whatever reasonable terms and conditions SecAg deems necessary. § 503(i)(1).

3. SecAg may determine borrower eligibility requirements for the § 705(b)(1) loan program and the terms and conditions of program loans. § 705(b)(1).

4. Lands identified to meet the Chugach Region Study objectives can include areas designated as conservation system units or for wilderness study units by this Act within the Chugach region. § 1430(b).

B. Management

1. SecAg may permit by reasonable regulations removal of non-leasable minerals in the Copper River addition to the Chugach National Forest according to Reorganization Plan No. 3 of 1946, and the Act of March 4, 1917 (39 Stat. 1150, 16 U.S.C. § 520). § 502.

2. SecAg may, according to reasonable regulations, allow the removal of leasable minerals from the public lands in the Copper River addition to the Chugach National Forest according to the mineral leasing laws provided that such removal does not have any significant adverse effects on the administration of the area. § 502.

3. SecAg may take whatever measures are necessary to control fire, insects, and disease within the Misty Fjord and Admiralty Island National Monuments. § 503(d).

4. SecAg may issue leases at fair market value for use for mining and milling purposes in conjunction with any valid mineral claim within the Misty Fjord or Admiralty Island National Monuments if SecAg determines the lease will not cause irreparable harm to the monuments, and the leased area will cause the least environmental harm of any other reasonably available location. § 503(f)(2).

5. Any lease for national monument lands is subject to the reasonable terms and conditions imposed by the Secretary. § 503(f)(3).

6. The holder of an unperfected claim making a valid mineral discovery under an exploration permit is entitled to the same access rights that the holder of a valid mineral claim has. § 503(g).

7. SecAg may suspend mining operations under an approved plan of seven days upon a finding that irreparable harm to fishery habitats or fish and fish food populations is occurring and immediate corrective action is needed. § 505(b)(4)(B).

8. SecAg may include terms and conditions in rights-of-way issued under the Act that protect the conservation system unit for its management purposes, require restoration, revegetation, or curtailment of erosion, regulate activities to minimize violations of applicable air and water quality standards, and require means to control or prevent harm to the environment and damage to public or private property or hazards to public health. § 1107.

III. Mandatory Coordination

A. Other Statutes

1. The Mining in the Parks Act, Public Law No. 94-249, 90 Stat. 1342, does not apply to the monuments. § 503(g).

2. An EIS under NERA (p. 147) must be prepared on the surface access road for bulk sampling of the mineral deposit at Quartz Hill. §§ 503(h)(3) and (5).

3. Wilderness areas and wilderness study areas are designated pursuant to the Wilderness Act (p. 137), and those areas are to be administered according to that Act. §§ 703, 704, and 707.

4. An EIS must be prepared on a transportation or utility system application under the Act. § 1104(e).

B. **Groups**

1. Federal Agencies

a. SecAg must consult with the Secretaries of Commerce and the Interior and the State of Alaska in preparing the mining development analysis documents. § 503(g)(2).

b. SecAg must consult with Secretaries of Commerce and Interior and the State of Alaska concerning the issuance of regulations to maintain and protect fisheries on national forest lands in Alaska. § 505(a).

c. SecAg must consult with Secretaries of Interior and Transportation and other appropriate heads of federal agencies to publish and prescribe a joint consolidated application form for rights-of-way for transportation and utility systems within six months of the Act. § 1104(b)(1).

d. See I.A.20.

2. State and Local Agencies

a. SecAg must consult with the state in assessing the effects on fish populations in issuing determinations and regulations to protect fisheries. § 505(a).

b. See also III.B.1.a and b.

c. SecAg must consult and cooperate with the state, affected native corporations, the Southeast Alaska timber industry, Southeast Alaska Conservation Counsel, and the Alaska Land Use Council, in preparing a study of the Tongass National Forest. § 706(c).

d. Lands subject to the Chugach Region Study pending final congressional action or conveyance according to this Act shall be managed by SecAg in close consultation with the Chugach Natives, Incorporated, and in such a manner as not to preclude any study options. § 1430(g).

e. See I.B.38 and 39.

3. Other - none

IV. Authorized Coordination - none

V. Cross-references to Other Statutes

A. Act of March 4, 1917, 39 Stat. 1150, 16 U.S.C. § 520, in § 502.

Note: Although this Act only applies to public lands in Alaska, it affects several other statutes such as claims under the Alaska Native Claims Settlement Act, conservation provisions in the Wilderness Act and the Wild and Scenic Rivers Act, and right-of-way provisions in FLPMA (p. 65). These statutes should be consulted together, as appropriate, to determine their combined effect.

Several actions by the Forest Service including preparation of required EISs and decisions on special use permits are subject to expedited judicial review. In those instances the appropriate court is directed to move the case to the earliest date on its calendar for hearing.

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